

By Senator Crist

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1                                   A bill to be entitled  
2       An act relating to background screening; amending s.  
3       39.821, F.S.; revising background screening  
4       requirements for the Guardian Ad Litem Program;  
5       amending s. 215.5586, F.S.; removing reference to  
6       chapter 435, F.S., for background screening of  
7       hurricane mitigation inspectors; amending s. 393.0655,  
8       F.S.; adding additional disqualifying offenses for the  
9       screening of direct service providers for persons with  
10      developmental disabilities; amending s. 394.4572,  
11      F.S.; revising background screening requirements for  
12      mental health personnel; amending s. 400.215, F.S.;  
13      revising background screening requirements for nursing  
14      home personnel; amending s. 400.506, F.S.; conforming  
15      provisions to changes made by the act; amending s.  
16      400.512, F.S.; revising background screening  
17      requirements for home health agency personnel, nurse  
18      registry personnel, and companions and homemakers;  
19      amending s. 400.6065, F.S.; revising background  
20      screening requirements for hospices; amending s.  
21      400.801, F.S.; revising background screening  
22      requirements for homes for special services; amending  
23      s. 400.805, F.S.; revising background screening  
24      requirements for transitional living facilities;  
25      creating s. 400.9065, F.S.; providing background  
26      screening requirements for prescribed pediatric  
27      extended care centers; amending s. 400.934, F.S.;  
28      revising minimum standards for home medical equipment  
29      providers; amending s. 400.953, F.S.; revising

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30 background screening requirements for home medical  
31 equipment providers; repealing s. 400.955, F.S.,  
32 relating to the procedures for screening of home  
33 medical equipment provider personnel; amending s.  
34 400.964, F.S.; revising background screening  
35 requirements for intermediate care facilities for  
36 developmentally disabled persons; amending s. 400.980,  
37 F.S.; revising background screening requirements for  
38 health care services pools; amending s. 400.991, F.S.;  
39 revising background screening requirements for health  
40 care clinics; amending s. 408.806, F.S.; adding a  
41 requirement for an affidavit relating to background  
42 screening to the license application process under the  
43 Agency for Health Care Administration; amending s.  
44 408.808, F.S.; conforming provisions to changes made  
45 by the act; amending s. 408.809, F.S.; revising  
46 background screening requirements under the Agency for  
47 Health Care Administration; requiring electronic  
48 submission of fingerprints; amending s. 409.175, F.S.;  
49 revising background screening requirements for  
50 employees and volunteers in summer day camps and  
51 summer 24-hour camps; amending s. 409.221, F.S.;  
52 revising background screening requirements for persons  
53 who render consumer-directed care; amending s.  
54 409.907, F.S.; revising background screening  
55 requirements for Medicaid providers; amending s.  
56 429.14, F.S.; revising administrative penalty  
57 provisions relating to assisted living facilities;  
58 amending s. 429.174, F.S.; revising background

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59 screening requirements for assisted living facilities;  
60 amending s. 429.67, F.S.; revising licensure  
61 requirements for adult family-care homes; amending s.  
62 429.69, F.S.; revising background screening  
63 requirements for adult family-care homes; amending s.  
64 429.911, F.S.; revising administrative penalty  
65 provisions relating to adult day care centers;  
66 amending s. 429.919, F.S.; revising background  
67 screening requirements for adult day care centers;  
68 creating s. 430.60, F.S.; providing background  
69 screening requirements for direct service providers  
70 under the Department of Elderly Affairs; amending s.  
71 435.01, F.S.; revising provisions related to the  
72 applicability of the chapter, statutory references to  
73 the chapter, and rulemaking; providing construction  
74 with respect to the doctrine of incorporation by  
75 reference; amending s. 435.02, F.S.; revising and  
76 adding definitions; amending s. 435.03, F.S.; revising  
77 level 1 screening standards; adding disqualifying  
78 offenses; amending s. 435.04, F.S.; revising level 2  
79 screening standards; requiring electronic submission  
80 of fingerprints after a certain date; authorizing  
81 agencies to contract for electronic fingerprinting;  
82 adding disqualifying offenses; amending s. 435.05,  
83 F.S.; revising background check requirements for  
84 covered employees and employers; amending s. 435.06,  
85 F.S.; revising provisions relating to exclusion from  
86 employment; providing that an employer may not hire,  
87 select, or otherwise allow an employee contact with

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88 any vulnerable person until the screening process is  
89 completed; requiring removal of an employee arrested  
90 for disqualifying offenses from roles requiring  
91 background screening until the employee's eligibility  
92 for employment is determined; amending s. 435.07,  
93 F.S.; revising provisions relating to exemptions from  
94 disqualification; amending s. 435.08, F.S.; revising  
95 provisions relating to the payment for processing of  
96 fingerprints and criminal history records checks;  
97 amending s. 464.203, F.S.; conforming provisions to  
98 changes made by the act; amending s. 489.115, F.S.;  
99 removing reference to chapter 435, F.S., for  
100 background screening of construction contractors;  
101 amending s. 943.05, F.S.; revising provisions relating  
102 to the Criminal Justice Information Program under the  
103 Department of Law Enforcement; authorizing agencies to  
104 request the retention of certain fingerprints by the  
105 department; providing for rulemaking to require  
106 employers to keep the agencies informed of any change  
107 in the affiliation, employment, or contractual status  
108 of each person whose fingerprints are retained in  
109 certain circumstances; providing departmental duties  
110 upon notification that a federal fingerprint retention  
111 program is in effect; amending s. 943.053, F.S.;  
112 removing obsolete references relating to the  
113 dissemination of criminal justice information;  
114 amending s. 985.644, F.S.; revising background  
115 screening requirements for the Department of Juvenile  
116 Justice; authorizing rulemaking; amending ss.

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117 381.60225, 409.912, 464.018, 468.3101, 744.309,  
118 744.474, and 985.04, F.S.; conforming provisions to  
119 changes made to ch. 435, F.S., by this act; providing  
120 for prospective application of the act; providing an  
121 effective date.

122

123 Be It Enacted by the Legislature of the State of Florida:

124

125 Section 1. Subsection (1) of section 39.821, Florida  
126 Statutes, is amended to read:

127 39.821 Qualifications of guardians ad litem.—

128 (1) Because of the special trust or responsibility placed  
129 in a guardian ad litem, the Guardian Ad Litem Program may use  
130 any private funds collected by the program, or any state funds  
131 so designated, to conduct a security background investigation  
132 before certifying a volunteer to serve. A security background  
133 investigation must include, but need not be limited to,  
134 employment history checks, checks of references, local criminal  
135 records checks through local law enforcement agencies, and  
136 statewide criminal records checks through the Department of Law  
137 Enforcement. Upon request, an employer shall furnish a copy of  
138 the personnel record for the employee or former employee who is  
139 the subject of a security background investigation conducted  
140 under this section. The information contained in the personnel  
141 record may include, but need not be limited to, disciplinary  
142 matters and the reason why the employee was terminated from  
143 employment. An employer who releases a personnel record for  
144 purposes of a security background investigation is presumed to  
145 have acted in good faith and is not liable for information

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146 contained in the record without a showing that the employer  
147 maliciously falsified the record. A security background  
148 investigation conducted under this section must ensure that a  
149 person is not certified as a guardian ad litem if the person has  
150 been convicted of, regardless of adjudication, or entered a plea  
151 of nolo contendere or guilty to, any offense prohibited under  
152 the provisions listed in s. 435.04. All applicants certified  
153 after July 1, 2010, must undergo a level 2 background screening  
154 pursuant to chapter 435 before being certified ~~the provisions of~~  
155 ~~the Florida Statutes specified in s. 435.04(2) or under any~~  
156 ~~similar law in another jurisdiction. Before certifying an~~  
157 ~~applicant to serve as a guardian ad litem, the Guardian Ad Litem~~  
158 ~~Program may request a federal criminal records check of the~~  
159 ~~applicant through the Federal Bureau of Investigation. In~~  
160 analyzing and evaluating the information obtained in the  
161 security background investigation, the program must give  
162 particular emphasis to past activities involving children,  
163 including, but not limited to, child-related criminal offenses  
164 or child abuse. The program has the sole discretion in  
165 determining whether to certify a person based on his or her  
166 security background investigation. The information collected  
167 pursuant to the security background investigation is  
168 confidential and exempt from s. 119.07(1).

169 Section 2. Paragraph (b) of subsection (1) of section  
170 215.5586, Florida Statutes, is amended to read:

171 215.5586 My Safe Florida Home Program.—There is established  
172 within the Department of Financial Services the My Safe Florida  
173 Home Program. The department shall provide fiscal  
174 accountability, contract management, and strategic leadership

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175 for the program, consistent with this section. This section does  
176 not create an entitlement for property owners or obligate the  
177 state in any way to fund the inspection or retrofitting of  
178 residential property in this state. Implementation of this  
179 program is subject to annual legislative appropriations. It is  
180 the intent of the Legislature that the My Safe Florida Home  
181 Program provide trained and certified inspectors to perform  
182 inspections for owners of site-built, single-family, residential  
183 properties and grants to eligible applicants as funding allows.  
184 The program shall develop and implement a comprehensive and  
185 coordinated approach for hurricane damage mitigation that may  
186 include the following:

187 (1) HURRICANE MITIGATION INSPECTIONS.—

188 (b) To qualify for selection by the department as a wind  
189 certification entity to provide hurricane mitigation  
190 inspections, the entity shall, at a minimum, meet the following  
191 requirements:

192 1. Use hurricane mitigation inspectors who:

- 193 a. Are certified as a building inspector under s. 468.607;  
194 b. Are licensed as a general or residential contractor  
195 under s. 489.111;  
196 c. Are licensed as a professional engineer under s. 471.015  
197 and who have passed the appropriate equivalency test of the  
198 building code training program as required by s. 553.841;  
199 d. Are licensed as a professional architect under s.  
200 481.213; or  
201 e. Have at least 2 years of experience in residential  
202 construction or residential building inspection and have  
203 received specialized training in hurricane mitigation

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204 procedures. Such training may be provided by a class offered  
205 online or in person.

206 2. Use hurricane mitigation inspectors who also:

207 a. Have undergone drug testing and a level-2 background  
208 screening checks pursuant to s. 435.04. The department may  
209 conduct criminal record checks of inspectors used by wind  
210 certification entities. Inspectors must submit a set of the  
211 fingerprints to the department for state and national criminal  
212 history checks and must pay the fingerprint processing fee set  
213 forth in s. 624.501. The fingerprints shall be sent by the  
214 department to the Department of Law Enforcement and forwarded to  
215 the Federal Bureau of Investigation for processing. The results  
216 shall be returned to the department for screening. The  
217 fingerprints shall be taken by a law enforcement agency,  
218 designated examination center, or other department-approved  
219 entity; and

220 b. Have been certified, in a manner satisfactory to the  
221 department, to conduct the inspections.

222 3. Provide a quality assurance program including a  
223 reinspection component.

224 Section 3. Subsection (5) is added to section 393.0655,  
225 Florida Statutes, to read:

226 393.0655 Screening of direct service providers.—

227 (5) DISQUALIFYING OFFENSES.—The background screening  
228 conducted under this section must ensure that, in addition to  
229 the disqualifying offenses listed in s. 435.04, no person  
230 subject to the provisions of this section has been found guilty  
231 of, regardless of adjudication, or entered a plea of nolo  
232 contendere or guilty to, any offense prohibited under any of the



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233 following provisions of the Florida Statutes or under any  
234 similar statute of another jurisdiction:

235 (a) Any authorizing statutes, if the offense was a felony.

236 (b) This chapter, if the offense was a felony.

237 (c) Section 409.920, relating to Medicaid provider fraud.

238 (d) Section 409.9201, relating to Medicaid fraud.

239 (e) Section 817.034, relating to fraudulent acts through  
240 mail, wire, radio, electromagnetic, photoelectronic, or  
241 photooptical systems.

242 (f) Section 817.234, relating to false and fraudulent  
243 insurance claims.

244 (g) Section 817.505, relating to patient brokering.

245 (h) Section 817.568, relating to criminal use of personal  
246 identification information.

247 (i) Section 817.60, relating to obtaining a credit card  
248 through fraudulent means.

249 (j) Section 817.61, relating to fraudulent use of credit  
250 cards, if the offense was a felony.

251 (k) Section 831.01, relating to forgery.

252 (l) Section 831.02, relating to uttering forged  
253 instruments.

254 (m) Section 831.07, relating to forging bank bills, checks,  
255 drafts, or promissory notes.

256 (n) Section 831.09, relating to uttering forged bank bills,  
257 checks, drafts, or promissory notes.

258 Section 4. Section 394.4572, Florida Statutes, is amended  
259 to read:

260 394.4572 Screening of mental health personnel.—

261 (1) (a) The department and the Agency for Health Care

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262 Administration shall require level 2 background ~~employment~~  
263 screening pursuant to chapter 435 for mental health personnel  
264 ~~using the standards for level 2 screening set forth in chapter~~  
265 ~~435.~~ "Mental health personnel" includes all program directors,  
266 professional clinicians, staff members, and volunteers working  
267 in public or private mental health programs and facilities who  
268 have direct contact with individuals held for examination or  
269 admitted for mental health treatment ~~unmarried patients under~~  
270 ~~the age of 18 years.~~ For purposes of this chapter, employment  
271 screening of mental health personnel shall also include, but is  
272 not limited to, employment screening as provided under chapter  
273 435 and s. 408.809.

274 (b) Students in the health care professions who are  
275 interning in a mental health facility licensed under chapter  
276 395, where the primary purpose of the facility is not the  
277 treatment of minors, are exempt from the fingerprinting and  
278 screening requirements, if ~~provided~~ they are under direct  
279 supervision in the actual physical presence of a licensed health  
280 care professional.

281 (c) ~~Mental health personnel working in a facility licensed~~  
282 ~~under chapter 395 who have less than 15 hours per week of direct~~  
283 ~~contact with patients or who are health care professionals~~  
284 ~~licensed by the Agency for Health Care Administration or a board~~  
285 ~~thereunder are exempt from the fingerprinting and screening~~  
286 ~~requirements, except for persons working in mental health~~  
287 ~~facilities where the primary purpose of the facility is the~~  
288 ~~treatment of minors.~~

289 (d) A volunteer who assists on an intermittent basis for  
290 less than 40 hours per month is exempt from the fingerprinting

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291 and screening requirements, provided the volunteer is under  
292 direct and constant supervision by persons who meet the  
293 screening requirements of paragraph (a).

294 (2) The department or the Agency for Health Care  
295 Administration may grant exemptions from disqualification as  
296 provided in chapter 435 s. 435.06.

297 ~~(3) Prospective mental health personnel who have previously~~  
298 ~~been fingerprinted or screened pursuant to this chapter, chapter~~  
299 ~~393, chapter 397, chapter 402, or chapter 409, or teachers who~~  
300 ~~have been fingerprinted pursuant to chapter 1012, who have not~~  
301 ~~been unemployed for more than 90 days thereafter, and who under~~  
302 ~~the penalty of perjury attest to the completion of such~~  
303 ~~fingerprinting or screening and to compliance with the~~  
304 ~~provisions of this section and the standards for level 1~~  
305 ~~screening contained in chapter 435, shall not be required to be~~  
306 ~~refingerprinted or rescreened in order to comply with any~~  
307 ~~screening requirements of this part.~~

308 Section 5. Section 400.215, Florida Statutes, is amended to  
309 read:

310 400.215 Personnel screening requirement.—

311 (1) The agency shall require level 2 background screening  
312 for personnel as required in s. 408.809(1) (e) pursuant to as  
313 ~~provided in chapter 435 and s. 408.809. for all employees or~~  
314 ~~prospective employees of facilities licensed under this part who~~  
315 ~~are expected to, or whose responsibilities may require them to:~~

316 ~~(a) Provide personal care or services to residents;~~

317 ~~(b) Have access to resident living areas; or~~

318 ~~(c) Have access to resident funds or other personal~~  
319 ~~property.~~

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320           ~~(2) Employers and employees shall comply with the~~  
321 ~~requirements of s. 435.05.~~

322           ~~(a) Notwithstanding the provisions of s. 435.05(1),~~  
323 ~~facilities must have in their possession evidence that level 1~~  
324 ~~screening has been completed before allowing an employee to~~  
325 ~~begin working with patients as provided in subsection (1). All~~  
326 ~~information necessary for conducting background screening using~~  
327 ~~level 1 standards as specified in s. 435.03 shall be submitted~~  
328 ~~by the nursing facility to the agency. Results of the background~~  
329 ~~screening shall be provided by the agency to the requesting~~  
330 ~~nursing facility.~~

331           ~~(b) Employees qualified under the provisions of paragraph~~  
332 ~~(a) who have not maintained continuous residency within the~~  
333 ~~state for the 5 years immediately preceding the date of request~~  
334 ~~for background screening must complete level 2 screening, as~~  
335 ~~provided in chapter 435. Such employees may work in a~~  
336 ~~conditional status up to 180 days pending the receipt of written~~  
337 ~~findings evidencing the completion of level 2 screening. Level 2~~  
338 ~~screening shall not be required of employees or prospective~~  
339 ~~employees who attest in writing under penalty of perjury that~~  
340 ~~they meet the residency requirement. Completion of level 2~~  
341 ~~screening shall require the employee or prospective employee to~~  
342 ~~furnish to the nursing facility a full set of fingerprints to~~  
343 ~~enable a criminal background investigation to be conducted. The~~  
344 ~~nursing facility shall submit the completed fingerprint card to~~  
345 ~~the agency. The agency shall establish a record of the request~~  
346 ~~in the database provided for in paragraph (c) and forward the~~  
347 ~~request to the Department of Law Enforcement, which is~~  
348 ~~authorized to submit the fingerprints to the Federal Bureau of~~

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349 ~~Investigation for a national criminal history records check. The~~  
350 ~~results of the national criminal history records check shall be~~  
351 ~~returned to the agency, which shall maintain the results in the~~  
352 ~~database provided for in paragraph (c). The agency shall notify~~  
353 ~~the administrator of the requesting nursing facility or the~~  
354 ~~administrator of any other facility licensed under chapter 393,~~  
355 ~~chapter 394, chapter 395, chapter 397, chapter 429, or this~~  
356 ~~chapter, as requested by such facility, as to whether or not the~~  
357 ~~employee has qualified under level 1 or level 2 screening. An~~  
358 ~~employee or prospective employee who has qualified under level 2~~  
359 ~~screening and has maintained such continuous residency within~~  
360 ~~the state shall not be required to complete a subsequent level 2~~  
361 ~~screening as a condition of employment at another facility.~~

362 ~~(c) The agency shall establish and maintain a database of~~  
363 ~~background screening information which shall include the results~~  
364 ~~of both level 1 and level 2 screening. The Department of Law~~  
365 ~~Enforcement shall timely provide to the agency, electronically,~~  
366 ~~the results of each statewide screening for incorporation into~~  
367 ~~the database. The agency shall, upon request from any facility,~~  
368 ~~agency, or program required by or authorized by law to screen~~  
369 ~~its employees or applicants, notify the administrator of the~~  
370 ~~facility, agency, or program of the qualifying or disqualifying~~  
371 ~~status of the employee or applicant named in the request.~~

372 ~~(d) Applicants and employees shall be excluded from~~  
373 ~~employment pursuant to s. 435.06.~~

374 ~~(3) The applicant is responsible for paying the fees~~  
375 ~~associated with obtaining the required screening. Payment for~~  
376 ~~the screening shall be submitted to the agency. The agency shall~~  
377 ~~establish a schedule of fees to cover the costs of level 1 and~~

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378 ~~level 2 screening. Facilities may reimburse employees for these~~  
379 ~~costs. The Department of Law Enforcement shall charge the agency~~  
380 ~~for a level 1 or level 2 screening a rate sufficient to cover~~  
381 ~~the costs of such screening pursuant to s. 943.053(3). The~~  
382 ~~agency shall, as allowable, reimburse nursing facilities for the~~  
383 ~~cost of conducting background screening as required by this~~  
384 ~~section. This reimbursement will not be subject to any rate~~  
385 ~~ceilings or payment targets in the Medicaid Reimbursement plan.~~

386 ~~(4)(a) As provided in s. 435.07, the agency may grant an~~  
387 ~~exemption from disqualification to an employee or prospective~~  
388 ~~employee who is subject to this section and who has not received~~  
389 ~~a professional license or certification from the Department of~~  
390 ~~Health.~~

391 ~~(b) As provided in s. 435.07, the appropriate regulatory~~  
392 ~~board within the Department of Health, or that department itself~~  
393 ~~when there is no board, may grant an exemption from~~  
394 ~~disqualification to an employee or prospective employee who is~~  
395 ~~subject to this section and who has received a professional~~  
396 ~~license or certification from the Department of Health or a~~  
397 ~~regulatory board within that department.~~

398 ~~(5) Any provision of law to the contrary notwithstanding,~~  
399 ~~persons who have been screened and qualified as required by this~~  
400 ~~section and who have not been unemployed for more than 180 days~~  
401 ~~thereafter, and who under penalty of perjury attest to not~~  
402 ~~having been convicted of a disqualifying offense since the~~  
403 ~~completion of such screening, shall not be required to be~~  
404 ~~rescreened. An employer may obtain, pursuant to s. 435.10,~~  
405 ~~written verification of qualifying screening results from the~~  
406 ~~previous employer or other entity which caused such screening to~~

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407 ~~be performed.~~

408 ~~(6) The agency and the Department of Health shall have~~  
409 ~~authority to adopt rules pursuant to the Administrative~~  
410 ~~Procedure Act to implement this section.~~

411 ~~(7) All employees shall comply with the requirements of~~  
412 ~~this section by October 1, 1998. No current employee of a~~  
413 ~~nursing facility as of the effective date of this act shall be~~  
414 ~~required to submit to rescreening if the nursing facility has in~~  
415 ~~its possession written evidence that the person has been~~  
416 ~~screened and qualified according to level 1 standards as~~  
417 ~~specified in s. 435.03(1). Any current employee who meets the~~  
418 ~~level 1 requirement but does not meet the 5-year residency~~  
419 ~~requirement as specified in this section must provide to the~~  
420 ~~employing nursing facility written attestation under penalty of~~  
421 ~~perjury that the employee has not been convicted of a~~  
422 ~~disqualifying offense in another state or jurisdiction. All~~  
423 ~~applicants hired on or after October 1, 1998, shall comply with~~  
424 ~~the requirements of this section.~~

425 ~~(8) There is no monetary or unemployment liability on the~~  
426 ~~part of, and no cause of action for damages arising against an~~  
427 ~~employer that, upon notice of a disqualifying offense listed~~  
428 ~~under chapter 435 or an act of domestic violence, terminates the~~  
429 ~~employee against whom the report was issued, whether or not the~~  
430 ~~employee has filed for an exemption with the Department of~~  
431 ~~Health or the Agency for Health Care Administration.~~

432 Section 6. Subsection (9) of section 400.506, Florida  
433 Statutes, is amended to read:

434 400.506 Licensure of nurse registries; requirements;  
435 penalties.—

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436 (9) Each nurse registry must comply with the background  
437 screening requirements ~~procedures set forth~~ in s. 400.512 for  
438 ~~maintaining records of the work history of all persons referred~~  
439 ~~for contract and is subject to the standards and conditions set~~  
440 ~~forth in that section.~~ However, an initial screening may not be  
441 required for persons who have been continuously registered with  
442 the nurse registry since October 1, 2000.

443 Section 7. Section 400.512, Florida Statutes, is amended to  
444 read:

445 400.512 Screening of home health agency personnel; nurse  
446 registry personnel; and companions and homemakers.—The agency  
447 shall require level 2 background screening for personnel as  
448 required in s. 408.809(1)(e) pursuant to chapter 435 and s.  
449 408.809 ~~employment or contractor screening as provided in~~  
450 ~~chapter 435, using the level 1 standards for screening set forth~~  
451 ~~in that chapter, for home health agency personnel; persons~~  
452 ~~referred for employment by nurse registries; and persons~~  
453 ~~employed by companion or homemaker services registered under s.~~  
454 ~~400.509.~~

455 ~~(1)(a) The Agency for Health Care Administration may, upon~~  
456 ~~request, grant exemptions from disqualification from employment~~  
457 ~~or contracting under this section as provided in s. 435.07,~~  
458 ~~except for health care practitioners licensed by the Department~~  
459 ~~of Health or a regulatory board within that department.~~

460 ~~(b) The appropriate regulatory board within the Department~~  
461 ~~of Health, or that department itself when there is no board,~~  
462 ~~may, upon request of the licensed health care practitioner,~~  
463 ~~grant exemptions from disqualification from employment or~~  
464 ~~contracting under this section as provided in s. 435.07.~~



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465       ~~(2) The administrator of each home health agency, the~~  
466 ~~managing employee of each nurse registry, and the managing~~  
467 ~~employee of each companion or homemaker service registered under~~  
468 ~~s. 400.509 must sign an affidavit annually, under penalty of~~  
469 ~~perjury, stating that all personnel hired or contracted with or~~  
470 ~~registered on or after October 1, 2000, who enter the home of a~~  
471 ~~patient or client in their service capacity have been screened.~~

472       ~~(3) As a prerequisite to operating as a home health agency,~~  
473 ~~nurse registry, or companion or homemaker service under s.~~  
474 ~~400.509, the administrator or managing employee, respectively,~~  
475 ~~must submit to the agency his or her name and any other~~  
476 ~~information necessary to conduct a complete screening according~~  
477 ~~to this section. The agency shall submit the information to the~~  
478 ~~Department of Law Enforcement for state processing. The agency~~  
479 ~~shall review the record of the administrator or manager with~~  
480 ~~respect to the offenses specified in this section and shall~~  
481 ~~notify the owner of its findings. If disposition information is~~  
482 ~~missing on a criminal record, the administrator or manager, upon~~  
483 ~~request of the agency, must obtain and supply within 30 days the~~  
484 ~~missing disposition information to the agency. Failure to supply~~  
485 ~~missing information within 30 days or to show reasonable efforts~~  
486 ~~to obtain such information will result in automatic~~  
487 ~~disqualification.~~

488       ~~(4) Proof of compliance with the screening requirements of~~  
489 ~~chapter 435 shall be accepted in lieu of the requirements of~~  
490 ~~this section if the person has been continuously employed or~~  
491 ~~registered without a breach in service that exceeds 180 days,~~  
492 ~~the proof of compliance is not more than 2 years old, and the~~  
493 ~~person has been screened by the Department of Law Enforcement. A~~

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494 ~~home health agency, nurse registry, or companion or homemaker~~  
495 ~~service registered under s. 400.509 shall directly provide proof~~  
496 ~~of compliance to another home health agency, nurse registry, or~~  
497 ~~companion or homemaker service registered under s. 400.509. The~~  
498 ~~recipient home health agency, nurse registry, or companion or~~  
499 ~~homemaker service registered under s. 400.509 may not accept any~~  
500 ~~proof of compliance directly from the person who requires~~  
501 ~~screening. Proof of compliance with the screening requirements~~  
502 ~~of this section shall be provided upon request to the person~~  
503 ~~screened by the home health agencies; nurse registries; or~~  
504 ~~companion or homemaker services registered under s. 400.509.~~

505 ~~(5) There is no monetary liability on the part of, and no~~  
506 ~~cause of action for damages arises against, a licensed home~~  
507 ~~health agency, licensed nurse registry, or companion or~~  
508 ~~homemaker service registered under s. 400.509, that, upon notice~~  
509 ~~that the employee or contractor has been found guilty of,~~  
510 ~~regardless of adjudication, or entered a plea of nolo contendere~~  
511 ~~or guilty to, any offense prohibited under s. 435.03 or under~~  
512 ~~any similar statute of another jurisdiction, terminates the~~  
513 ~~employee or contractor, whether or not the employee or~~  
514 ~~contractor has filed for an exemption with the agency in~~  
515 ~~accordance with chapter 435 and whether or not the time for~~  
516 ~~filing has expired.~~

517 ~~(6) The costs of processing the statewide correspondence~~  
518 ~~criminal records checks must be borne by the home health agency;~~  
519 ~~the nurse registry; or the companion or homemaker service~~  
520 ~~registered under s. 400.509, or by the person being screened, at~~  
521 ~~the discretion of the home health agency, nurse registry, or s.~~  
522 ~~400.509 registrant.~~

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523 Section 8. Section 400.6065, Florida Statutes, is amended  
524 to read:

525 400.6065 Background screening.—The agency shall require  
526 level 2 background ~~employment or contractor~~ screening for  
527 personnel as required in s. 408.809(1)(e) pursuant to chapter  
528 435 and s. 408.809 as provided in chapter 435, using the level 1  
529 ~~standards for screening set forth in that chapter, for hospice~~  
530 ~~personnel.~~

531 Section 9. Subsection (2) of section 400.801, Florida  
532 Statutes, is amended to read:

533 400.801 Homes for special services.—

534 (2) (a) The requirements of part II of chapter 408 apply to  
535 the provision of services that require licensure pursuant to  
536 this section and part II of chapter 408 and entities licensed by  
537 or applying for such licensure from the agency pursuant to this  
538 section. A license issued by the agency is required in order to  
539 operate a home for special services in this state.

540 (b) The agency shall require level 2 background screening  
541 for personnel as required in s. 408.809(1)(e) pursuant to  
542 chapter 435 and s. 408.809.

543 Section 10. Paragraph (d) is added to subsection (2) of  
544 section 400.805, Florida Statutes, to read:

545 400.805 Transitional living facilities.—

546 (2)

547 (d) The agency shall require level 2 background screening  
548 for personnel as required in s. 408.809(1)(e) pursuant to  
549 chapter 435 and s. 408.809.

550 Section 11. Section 400.9065, Florida Statutes, is created  
551 to read:

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552       400.9065 Background screening.—The agency shall require  
553 level 2 background screening for personnel as required in s.  
554 408.809(1)(e) pursuant to chapter 435 and s. 408.809.

555       Section 12. Subsection (16) of section 400.934, Florida  
556 Statutes, is amended to read:

557       400.934 Minimum standards.—As a requirement of licensure,  
558 home medical equipment providers shall:

559       (16) Establish procedures for maintaining a record of the  
560 employment history, including background screening as required  
561 by ss. ~~s.~~ 400.953, and 408.809(1) and chapter 435 of all home  
562 medical equipment provider personnel. A home medical equipment  
563 provider must require its personnel to submit an employment  
564 history to the home medical equipment provider and must verify  
565 the employment history for at least the previous 5 years, unless  
566 through diligent efforts such verification is not possible.  
567 There is no monetary liability on the part of, and no cause of  
568 action for damages arising against a former employer, a  
569 prospective employee, or a prospective independent contractor  
570 with a licensed home medical equipment provider, who reasonably  
571 and in good faith communicates his or her honest opinions about  
572 a former employee's job performance. This subsection does not  
573 affect the official immunity of an officer or employee of a  
574 public corporation.

575       Section 13. Section 400.953, Florida Statutes, is amended  
576 to read:

577       400.953 Background screening of home medical equipment  
578 provider personnel.—The agency shall require level 2 background  
579 screening for personnel as required in s. 408.809(1)(e) pursuant  
580 to chapter 435 and s. 408.809 ~~employment screening as provided~~

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581 ~~in chapter 435, using the level 1 standards for screening set~~  
582 ~~forth in that chapter, for home medical equipment provider~~  
583 ~~personnel.~~

584 ~~(1) The agency may grant exemptions from disqualification~~  
585 ~~from employment under this section as provided in s. 435.07.~~

586 ~~(2) The general manager of each home medical equipment~~  
587 ~~provider must sign an affidavit annually, under penalty of~~  
588 ~~perjury, stating that all home medical equipment provider~~  
589 ~~personnel hired on or after July 1, 1999, who enter the home of~~  
590 ~~a patient in the capacity of their employment have been screened~~  
591 ~~and that its remaining personnel have worked for the home~~  
592 ~~medical equipment provider continuously since before July 1,~~  
593 ~~1999.~~

594 ~~(3) Proof of compliance with the screening requirements of~~  
595 ~~s. 110.1127, s. 393.0655, s. 394.4572, s. 397.451, s. 402.305,~~  
596 ~~s. 402.313, s. 409.175, s. 464.008, or s. 985.644 or this part~~  
597 ~~must be accepted in lieu of the requirements of this section if~~  
598 ~~the person has been continuously employed in the same type of~~  
599 ~~occupation for which he or she is seeking employment without a~~  
600 ~~breach in service that exceeds 180 days, the proof of compliance~~  
601 ~~is not more than 2 years old, and the person has been screened~~  
602 ~~by the Department of Law Enforcement. An employer or contractor~~  
603 ~~shall directly provide proof of compliance to another employer~~  
604 ~~or contractor, and a potential employer or contractor may not~~  
605 ~~accept any proof of compliance directly from the person~~  
606 ~~requiring screening. Proof of compliance with the screening~~  
607 ~~requirements of this section shall be provided, upon request, to~~  
608 ~~the person screened by the home medical equipment provider.~~

609 ~~(4) There is no monetary liability on the part of, and no~~

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610 ~~cause of action for damages arising against, a licensed home~~  
611 ~~medical equipment provider that, upon notice that an employee~~  
612 ~~has been found guilty of, regardless of adjudication, or entered~~  
613 ~~a plea of nolo contendere or guilty to, any offense prohibited~~  
614 ~~under s. 435.03 or under any similar statute of another~~  
615 ~~jurisdiction, terminates the employee, whether or not the~~  
616 ~~employee has filed for an exemption with the agency and whether~~  
617 ~~or not the time for filing has expired.~~

618 ~~(5) The costs of processing the statewide correspondence~~  
619 ~~criminal records checks must be borne by the home medical~~  
620 ~~equipment provider or by the person being screened, at the~~  
621 ~~discretion of the home medical equipment provider.~~

622 ~~(6) Neither the agency nor the home medical equipment~~  
623 ~~provider may use the criminal records or juvenile records of a~~  
624 ~~person for any purpose other than determining whether that~~  
625 ~~person meets minimum standards of good moral character for home~~  
626 ~~medical equipment provider personnel.~~

627 ~~(7) (a) It is a misdemeanor of the first degree, punishable~~  
628 ~~as provided in s. 775.082 or s. 775.083, for any person~~  
629 ~~willfully, knowingly, or intentionally to:~~

630 ~~1. Fail, by false statement, misrepresentation,~~  
631 ~~impersonation, or other fraudulent means, to disclose in any~~  
632 ~~application for paid employment a material fact used in making a~~  
633 ~~determination as to the person's qualifications to be an~~  
634 ~~employee under this section;~~

635 ~~2. Operate or attempt to operate an entity licensed under~~  
636 ~~this part with persons who do not meet the minimum standards for~~  
637 ~~good moral character as contained in this section; or~~

638 ~~3. Use information from the criminal records obtained under~~

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639 ~~this section for any purpose other than screening that person~~  
640 ~~for employment as specified in this section, or release such~~  
641 ~~information to any other person for any purpose other than~~  
642 ~~screening for employment under this section.~~

643 ~~(b) It is a felony of the third degree, punishable as~~  
644 ~~provided in s. 775.082, s. 775.083, or s. 775.084, for any~~  
645 ~~person willfully, knowingly, or intentionally to use information~~  
646 ~~from the juvenile records of a person obtained under this~~  
647 ~~section for any purpose other than screening for employment~~  
648 ~~under this section.~~

649 Section 14. Section 400.955, Florida Statutes, is repealed.

650 Section 15. Section 400.964, Florida Statutes, is amended  
651 to read:

652 400.964 Personnel screening requirement.—

653 ~~(1) The agency shall require level 2 background screening~~  
654 ~~for personnel as required in s. 408.809(1)(e) pursuant to~~  
655 ~~chapter 435 and s. 408.809 as provided in chapter 435 for all~~  
656 ~~employees or prospective employees of facilities licensed under~~  
657 ~~this part who are expected to be, or whose responsibilities are~~  
658 ~~such that they would be considered to be, a direct service~~  
659 ~~provider.~~

660 ~~(2) Employers and employees shall comply with the~~  
661 ~~requirements of chapter 435.~~

662 ~~(3) Applicants and employees shall be excluded from~~  
663 ~~employment pursuant to s. 435.06.~~

664 ~~(4) The applicant is responsible for paying the fees~~  
665 ~~associated with obtaining the required screening. Payment for~~  
666 ~~the screening must be submitted to the agency as prescribed by~~  
667 ~~the agency.~~

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668           ~~(5) Notwithstanding any other provision of law, persons who~~  
669 ~~have been screened and qualified as required by this section and~~  
670 ~~who have not been unemployed for more than 180 days thereafter,~~  
671 ~~and who under penalty of perjury attest to not having been~~  
672 ~~convicted of a disqualifying offense since the completion of~~  
673 ~~such screening are not required to be rescreened. An employer~~  
674 ~~may obtain, pursuant to s. 435.10, written verification of~~  
675 ~~qualifying screening results from the previous employer or other~~  
676 ~~entity that caused such screening to be performed.~~

677           ~~(6) The agency may adopt rules to administer this section.~~

678           ~~(7) All employees must comply with the requirements of this~~  
679 ~~section by October 1, 2000. A person employed by a facility~~  
680 ~~licensed pursuant to this part as of the effective date of this~~  
681 ~~act is not required to submit to rescreening if the facility has~~  
682 ~~in its possession written evidence that the person has been~~  
683 ~~screened and qualified according to level 1 standards as~~  
684 ~~specified in s. 435.03. Any current employee who meets the level~~  
685 ~~1 requirement but does not meet the 5-year residency requirement~~  
686 ~~must provide to the employing facility written attestation under~~  
687 ~~penalty of perjury that the employee has not been convicted of a~~  
688 ~~disqualifying offense in another state or jurisdiction. All~~  
689 ~~applicants hired on or after October 1, 1999, must comply with~~  
690 ~~the requirements of this section.~~

691           ~~(8) There is no monetary or unemployment liability on the~~  
692 ~~part of, and no cause of action for damages arises against an~~  
693 ~~employer that, upon notice of a disqualifying offense listed~~  
694 ~~under chapter 435 or an act of domestic violence, terminates the~~  
695 ~~employee, whether or not the employee has filed for an exemption~~  
696 ~~with the Department of Health or the Agency for Health Care~~



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697 ~~Administration.~~

698 Section 16. Subsection (3) of section 400.980, Florida  
699 Statutes, is amended to read:

700 400.980 Health care services pools.-

701 ~~(3) Upon receipt of a completed, signed, and dated~~  
702 ~~application,~~ The agency shall require level 2 background  
703 screening for personnel as required in s. 408.809(1)(e) pursuant  
704 to chapter 435 and s. 408.809, ~~in accordance with the level 1~~  
705 ~~standards for screening set forth in chapter 435, of every~~  
706 ~~individual who will have contact with patients.~~

707 Section 17. Subsection (5) of section 400.991, Florida  
708 Statutes, is amended to read:

709 400.991 License requirements; background screenings;  
710 prohibitions.-

711 ~~(5) Each applicant for licensure shall comply with the~~  
712 ~~following requirements:~~

713 (a) As used in this subsection, the term "applicant" means  
714 individuals owning or controlling, directly or indirectly, 5  
715 percent or more of an interest in a clinic; the medical or  
716 clinic director, or a similarly titled person who is responsible  
717 for the day-to-day operation of the licensed clinic; the  
718 financial officer or similarly titled individual who is  
719 responsible for the financial operation of the clinic; and  
720 licensed health care practitioners at the clinic.

721 ~~(b) Upon receipt of a completed, signed, and dated~~  
722 ~~application,~~ The agency shall require level 2 background  
723 screening for applicants and personnel as required in s.  
724 408.809(1)(e) pursuant to chapter 435 and s. 408.809 ~~of the~~  
725 ~~applicant, in accordance with the level 2 standards for~~

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726 ~~screening set forth in chapter 435. Proof of compliance with the~~  
727 ~~level 2 background screening requirements of chapter 435 which~~  
728 ~~has been submitted within the previous 5 years in compliance~~  
729 ~~with any other health care licensure requirements of this state~~  
730 ~~is acceptable in fulfillment of this paragraph. Applicants who~~  
731 ~~own less than 10 percent of a health care clinic are not~~  
732 ~~required to submit fingerprints under this section.~~

733 (c) Each applicant must submit to the agency, with the  
734 application, a description and explanation of any exclusions,  
735 permanent suspensions, or terminations of an applicant from the  
736 Medicare or Medicaid programs. Proof of compliance with the  
737 requirements for disclosure of ownership and control interest  
738 under the Medicaid or Medicare programs may be accepted in lieu  
739 of this submission. The description and explanation may indicate  
740 whether such exclusions, suspensions, or terminations were  
741 voluntary or not voluntary on the part of the applicant.

742 ~~(d) A license may not be granted to a clinic if the~~  
743 ~~applicant has been found guilty of, regardless of adjudication,~~  
744 ~~or has entered a plea of nolo contendere or guilty to, any~~  
745 ~~offense prohibited under the level 2 standards for screening set~~  
746 ~~forth in chapter 435, or a violation of insurance fraud under s.~~  
747 ~~817.234, within the past 5 years. If the applicant has been~~  
748 ~~convicted of an offense prohibited under the level 2 standards~~  
749 ~~or insurance fraud in any jurisdiction, the applicant must show~~  
750 ~~that his or her civil rights have been restored prior to~~  
751 ~~submitting an application.~~

752 Section 18. Paragraph (h) is added to subsection (1) of  
753 section 408.806, Florida Statutes, to read:

754 408.806 License application process.—

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755 (1) An application for licensure must be made to the agency  
756 on forms furnished by the agency, submitted under oath, and  
757 accompanied by the appropriate fee in order to be accepted and  
758 considered timely. The application must contain information  
759 required by authorizing statutes and applicable rules and must  
760 include:

761 (h) An affidavit, under penalty of perjury, stating that  
762 all persons subject to background screening as required by this  
763 part, authorizing statutes, and applicable rules have been  
764 screened and are qualified.

765 Section 19. Subsection (2) of section 408.808, Florida  
766 Statutes, is amended to read:

767 408.808 License categories.—

768 (2) PROVISIONAL LICENSE.—~~A provisional license may be~~  
769 ~~issued to an applicant pursuant to s. 408.809(3).~~ An applicant  
770 against whom a proceeding denying or revoking a license is  
771 pending at the time of license renewal may be issued a  
772 provisional license effective until final action not subject to  
773 further appeal. A provisional license may also be issued to an  
774 applicant applying for a change of ownership. A provisional  
775 license shall be limited in duration to a specific period of  
776 time, not to exceed 12 months, as determined by the agency.

777 Section 20. Section 408.809, Florida Statutes, is amended  
778 to read:

779 408.809 Background screening; prohibited offenses.—

780 (1) Level 2 background screening pursuant to chapter 435  
781 must be conducted through the agency on each of the following  
782 persons, who shall be considered an employee for the purposes of  
783 conducting screening under chapter 435:

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784 (a) The licensee, if an individual.

785 (b) The administrator or a similarly titled person who is  
786 responsible for the day-to-day operation of the provider.

787 (c) The financial officer or similarly titled individual  
788 who is responsible for the financial operation of the licensee  
789 or provider.

790 (d) Any person who is a controlling interest if the agency  
791 has reason to believe that such person has been convicted of any  
792 offense prohibited by s. 435.04. For each controlling interest  
793 who has been convicted of any such offense, the licensee shall  
794 submit to the agency a description and explanation of the  
795 conviction at the time of license application.

796 (e) Any person, as required by authorizing statutes,  
797 seeking employment with a licensee or provider who is expected  
798 to, or whose responsibilities may require him or her to, provide  
799 personal care or services directly to clients; and any person,  
800 as required by authorizing statutes, contracting with a licensee  
801 or provider whose responsibilities require him or her to provide  
802 personal care or services directly to clients. Evidence of  
803 contractor screening may be retained by the contractor's  
804 employer or the licensee. A person who is employed by or  
805 contracts with a licensee on or before June 30, 2010, is not  
806 required to submit to rescreening until such time as he or she  
807 is otherwise required to be rescreened pursuant to law if that  
808 licensee has in its possession written evidence that the person  
809 has been screened and qualified according to standards specified  
810 in s. 435.03 or s. 435.04.

811 (2) Every 5 years following his or her licensure,  
812 employment, or entry into a contract in a capacity that under

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813 subsection (1) would require level 2 background screening under  
814 chapter 435, each such person must submit to level 2 background  
815 rescreening as a condition of retaining such license or  
816 continuing in such employment or contractual status. For any  
817 such rescreening, the agency shall request the Department of Law  
818 Enforcement to forward the person's fingerprints to the Federal  
819 Bureau of Investigation for a national criminal history record  
820 check. If the fingerprints of such a person are not retained by  
821 the Department of Law Enforcement under s. 943.05(2)(g), the  
822 person must file a complete set of fingerprints with the agency.  
823 Upon the submission of fingerprints for this purpose, the agency  
824 shall request the Department of Law Enforcement to forward the  
825 fingerprints to the Federal Bureau of Investigation for a  
826 national criminal history record check, and the fingerprints may  
827 be retained by the Department of Law Enforcement under s.  
828 943.05(2)(g). The cost of the state and national criminal  
829 history records checks required by level 2 screening may be  
830 borne by the licensee or the person fingerprinted. Proof of  
831 compliance with level 2 screening standards submitted within the  
832 previous 5 years to meet any provider or professional licensure  
833 requirements of the agency, the Department of Health, the Agency  
834 for Persons with Disabilities, ~~or~~ the Department of Children and  
835 Family Services, or the Department of Financial Services for an  
836 applicant for a certificate of authority to operate a continuing  
837 care retirement community under chapter 651 satisfies the  
838 requirements of this section, provided that such proof is  
839 accompanied, under penalty of perjury, by an affidavit of  
840 compliance with the provisions of chapter 435 and this section  
841 using forms provided by the agency. ~~Proof of compliance with the~~

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842 ~~background screening requirements of the Department of Financial~~  
843 ~~Services submitted within the previous 5 years for an applicant~~  
844 ~~for a certificate of authority to operate a continuing care~~  
845 ~~retirement community under chapter 651 satisfies the Department~~  
846 ~~of Law Enforcement and Federal Bureau of Investigation portions~~  
847 ~~of a level 2 background check.~~

848 (3) All fingerprints must be provided in electronic format.  
849 Screening results shall be reviewed by the agency with respect  
850 to the offenses specified in s. 435.04 and this section and  
851 maintained in a database. The qualifying or disqualifying status  
852 of the person named in the request shall be posted on a secure  
853 website accessible to all licensees. A provisional license may  
854 ~~be granted to an applicant when each individual required by this~~  
855 ~~section to undergo background screening has met the standards~~  
856 ~~for the Department of Law Enforcement background check but the~~  
857 ~~agency has not yet received background screening results from~~  
858 ~~the Federal Bureau of Investigation. A standard license may be~~  
859 ~~granted to the licensee upon the agency's receipt of a report of~~  
860 ~~the results of the Federal Bureau of Investigation background~~  
861 ~~screening for each individual required by this section to~~  
862 ~~undergo background screening that confirms that all standards~~  
863 ~~have been met or upon the granting of an exemption from~~  
864 ~~disqualification by the agency as set forth in chapter 435.~~

865 ~~(4) When a person is newly employed in a capacity that~~  
866 ~~requires screening under this section, the licensee must notify~~  
867 ~~the agency of the change within the time period specified in the~~  
868 ~~authorizing statute or rules and must submit to the agency~~  
869 ~~information necessary to conduct level 2 screening or provide~~  
870 ~~evidence of compliance with background screening requirements of~~

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871 ~~this section. The person may serve in his or her capacity~~  
872 ~~pending the agency's receipt of the report from the Federal~~  
873 ~~Bureau of Investigation if he or she has met the standards for~~  
874 ~~the Department of Law Enforcement background check. However, the~~  
875 ~~person may not continue to serve in his or her capacity if the~~  
876 ~~report indicates any violation of background screening standards~~  
877 ~~unless an exemption from disqualification has been granted by~~  
878 ~~the agency as set forth in chapter 435.~~

879 (4) ~~(5)~~ ~~Effective October 1, 2009,~~ In addition to the  
880 offenses listed in ss. 435.03 and 435.04, all persons required  
881 to undergo background screening pursuant to this part or  
882 authorizing statutes must not have been found guilty of,  
883 regardless of adjudication, or entered a plea of nolo contendere  
884 or guilty to, any of the following offenses or any similar  
885 offense of another jurisdiction:

886 (a) Any authorizing statutes, if the offense was a felony.

887 (b) This chapter, if the offense was a felony.

888 (c) Section 409.920, relating to Medicaid provider fraud,  
889 ~~if the offense was a felony.~~

890 (d) Section 409.9201, relating to Medicaid fraud,~~if the~~  
891 ~~offense was a felony.~~

892 (e) Section 741.28, relating to domestic violence.

893 ~~(f) Chapter 784, relating to assault, battery, and culpable~~  
894 ~~negligence, if the offense was a felony.~~

895 ~~(g) Section 810.02, relating to burglary.~~

896 (f) ~~(h)~~ Section 817.034, relating to fraudulent acts through  
897 mail, wire, radio, electromagnetic, photoelectronic, or  
898 photooptical systems.

899 (g) ~~(i)~~ Section 817.234, relating to false and fraudulent

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900 insurance claims.

901 (h)~~(j)~~ Section 817.505, relating to patient brokering.

902 (i)~~(k)~~ Section 817.568, relating to criminal use of  
903 personal identification information.

904 (j)~~(l)~~ Section 817.60, relating to obtaining a credit card  
905 through fraudulent means.

906 (k)~~(m)~~ Section 817.61, relating to fraudulent use of credit  
907 cards, if the offense was a felony.

908 (l)~~(n)~~ Section 831.01, relating to forgery.

909 (m)~~(o)~~ Section 831.02, relating to uttering forged  
910 instruments.

911 (n)~~(p)~~ Section 831.07, relating to forging bank bills,  
912 checks, drafts, or promissory notes.

913 (o)~~(q)~~ Section 831.09, relating to uttering forged bank  
914 bills, checks, drafts, or promissory notes.

915 (p)~~(r)~~ Section 831.30, relating to fraud in obtaining  
916 medicinal drugs.

917 (q)~~(s)~~ Section 831.31, relating to the sale, manufacture,  
918 delivery, or possession with the intent to sell, manufacture, or  
919 deliver any counterfeit controlled substance, if the offense was  
920 a felony.

921  
922 A person who serves as a controlling interest of or is employed  
923 by a licensee on September 30, 2009, is not required by law to  
924 submit to rescreening if that licensee has in its possession  
925 written evidence that the person has been screened and qualified  
926 according to the standards specified in s. 435.03 or s. 435.04.  
927 However, if such person has a disqualifying offense listed in  
928 this section, he or she may apply for an exemption from the



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929 appropriate licensing agency before September 30, 2009, and if  
930 agreed to by the employer, may continue to perform his or her  
931 duties until the licensing agency renders a decision on the  
932 application for exemption for offenses listed in this section.  
933 Exemptions from disqualification may be granted pursuant to s.  
934 435.07.

935 (5)~~(6)~~ The costs associated with obtaining the required  
936 screening must be borne either by the licensee or the person  
937 subject to screening. Licensees may reimburse persons for these  
938 costs. The Department of Law Enforcement shall charge the agency  
939 for screening pursuant to s. 943.053(3). The agency shall  
940 establish a schedule of fees to cover the costs of screening ~~The~~  
941 ~~attestations required under ss. 435.04(5) and 435.05(3) must be~~  
942 ~~submitted at the time of license renewal, notwithstanding the~~  
943 ~~provisions of ss. 435.04(5) and 435.05(3) which require annual~~  
944 ~~submission of an affidavit of compliance with background~~  
945 ~~screening requirements.~~

946 (6) (a) As provided in chapter 435, the agency may grant an  
947 exemption from disqualification to a person who is subject to  
948 this section and who has not received a professional license or  
949 certification from the Department of Health if that person is  
950 providing a service that is within the scope of his or her  
951 licensed or certified practice.

952 (b) As provided in chapter 435, the appropriate regulatory  
953 board within the Department of Health, or the department itself  
954 when there is no board, may grant an exemption from  
955 disqualification to a person who is subject to this section and  
956 who has received a professional license or certification from  
957 the Department of Health or a regulatory board within that

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958 department and that person is providing a service within the  
959 scope of his or her licensed or certified practice.

960 (7) The agency and the Department of Health may adopt rules  
961 pursuant to ss. 120.536(1) and 120.54 to implement this section,  
962 chapter 435, and authorizing statutes requiring background  
963 screening and to implement and adopt criteria relating to  
964 retaining fingerprints pursuant to s. 943.05(2).

965 (8) There is no unemployment compensation or other monetary  
966 liability on the part of, and no cause of action for damages  
967 arising against, an employer that, upon notice of a  
968 disqualifying offense listed under chapter 435 or this section,  
969 terminates the person against whom the report was issued,  
970 whether or not that person has filed for an exemption with the  
971 Department of Health or the agency.

972 Section 21. Paragraph (k) of subsection (2) of section  
973 409.175, Florida Statutes, is amended to read:

974 409.175 Licensure of family foster homes, residential  
975 child-caring agencies, and child-placing agencies; public  
976 records exemption.—

977 (2) As used in this section, the term:

978 (k) "Screening" means the act of assessing the background  
979 of personnel and includes, but is not limited to, employment  
980 history checks as provided in chapter 435, using the level 2  
981 standards for screening set forth in that chapter. Screening for  
982 employees and volunteers in summer day camps and summer 24-hour  
983 camps and screening for all volunteers included under the  
984 definition of "personnel" shall be conducted as provided in  
985 chapter 435, using the level 2 ~~level 1~~ standards set forth in  
986 that chapter.

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987 Section 22. Paragraph (i) of subsection (4) of section  
988 409.221, Florida Statutes, is amended to read:

989 409.221 Consumer-directed care program.—

990 (4) CONSUMER-DIRECTED CARE.—

991 (i) *Background screening requirements.*—All persons who  
992 render care under this section must undergo level 2 background  
993 screening pursuant to chapter 435 ~~shall comply with the~~  
994 ~~requirements of s. 435.05. Persons shall be excluded from~~  
995 ~~employment pursuant to s. 435.06.~~

996 ~~1. Persons excluded from employment may request an~~  
997 ~~exemption from disqualification, as provided in s. 435.07.~~  
998 ~~Persons not subject to certification or professional licensure~~  
999 ~~may request an exemption from the agency. In considering a~~  
1000 ~~request for an exemption, the agency shall comply with the~~  
1001 ~~provisions of s. 435.07.~~

1002 ~~2. The agency shall, as allowable, reimburse consumer-~~  
1003 ~~employed caregivers for the cost of conducting background~~  
1004 ~~screening as required by this section.~~

1005  
1006 For purposes of this section, a person who has undergone  
1007 screening, who is qualified for employment under this section  
1008 and applicable rule, and who has not been unemployed for more  
1009 than 90 ~~180~~ days following such screening is not required to be  
1010 rescreened. Such person must attest under penalty of perjury to  
1011 not having been convicted of a disqualifying offense since  
1012 completing such screening.

1013 Section 23. Subsection (8) of section 409.907, Florida  
1014 Statutes, is amended to read:

1015 409.907 Medicaid provider agreements.—The agency may make

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1016 payments for medical assistance and related services rendered to  
1017 Medicaid recipients only to an individual or entity who has a  
1018 provider agreement in effect with the agency, who is performing  
1019 services or supplying goods in accordance with federal, state,  
1020 and local law, and who agrees that no person shall, on the  
1021 grounds of handicap, race, color, or national origin, or for any  
1022 other reason, be subjected to discrimination under any program  
1023 or activity for which the provider receives payment from the  
1024 agency.

1025 (8) (a) Each provider, or each principal of the provider if  
1026 the provider is a corporation, partnership, association, or  
1027 other entity, seeking to participate in the Medicaid program  
1028 must submit a complete set of his or her fingerprints to the  
1029 agency for the purpose of conducting a criminal history record  
1030 check. Principals of the provider include any officer, director,  
1031 billing agent, managing employee, or affiliated person, or any  
1032 partner or shareholder who has an ownership interest equal to 5  
1033 percent or more in the provider. However, a director of a not-  
1034 for-profit corporation or organization is not a principal for  
1035 purposes of a background investigation as required by this  
1036 section if the director: serves solely in a voluntary capacity  
1037 for the corporation or organization, does not regularly take  
1038 part in the day-to-day operational decisions of the corporation  
1039 or organization, receives no remuneration from the not-for-  
1040 profit corporation or organization for his or her service on the  
1041 board of directors, has no financial interest in the not-for-  
1042 profit corporation or organization, and has no family members  
1043 with a financial interest in the not-for-profit corporation or  
1044 organization; and if the director submits an affidavit, under

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1045 penalty of perjury, to this effect to the agency and the not-  
1046 for-profit corporation or organization submits an affidavit,  
1047 under penalty of perjury, to this effect to the agency as part  
1048 of the corporation's or organization's Medicaid provider  
1049 agreement application. Notwithstanding the above, the agency may  
1050 require a background check for any person reasonably suspected  
1051 by the agency to have been convicted of a crime. This subsection  
1052 shall not apply to:

1053 1. A hospital licensed under chapter 395;  
1054 2. A nursing home licensed under chapter 400;  
1055 3. A hospice licensed under chapter 400;  
1056 4. An assisted living facility licensed under chapter 429;  
1057 5. A unit of local government, except that requirements of  
1058 this subsection apply to nongovernmental providers and entities  
1059 when contracting with the local government to provide Medicaid  
1060 services. The actual cost of the state and national criminal  
1061 history record checks must be borne by the nongovernmental  
1062 provider or entity; or

1063 6. Any business that derives more than 50 percent of its  
1064 revenue from the sale of goods to the final consumer, and the  
1065 business or its controlling parent either is required to file a  
1066 form 10-K or other similar statement with the Securities and  
1067 Exchange Commission or has a net worth of \$50 million or more.

1068 (b) Background screening shall be conducted in accordance  
1069 with chapter 435 and s. 408.809 ~~The agency shall submit the~~  
1070 ~~fingerprints to the Department of Law Enforcement. The~~  
1071 ~~department shall conduct a state criminal background~~  
1072 ~~investigation and forward the fingerprints to the Federal Bureau~~  
1073 ~~of Investigation for a national criminal history record check.~~

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1074 The cost of the state and national criminal record check shall  
1075 be borne by the provider.

1076 ~~(c) The agency may permit a provider to participate in the~~  
1077 ~~Medicaid program pending the results of the criminal record~~  
1078 ~~check. However, such permission is fully revocable if the record~~  
1079 ~~check reveals any crime-related history as provided in~~  
1080 ~~subsection (10).~~

1081 ~~(d) Proof of compliance with the requirements of level 2~~  
1082 ~~screening under chapter 435 s. 435.04 conducted within 12 months~~  
1083 ~~prior to the date that the Medicaid provider application is~~  
1084 ~~submitted to the agency shall fulfill the requirements of this~~  
1085 ~~subsection. Proof of compliance with the requirements of level 1~~  
1086 ~~screening under s. 435.03 conducted within 12 months prior to~~  
1087 ~~the date that the Medicaid provider application is submitted to~~  
1088 ~~the agency shall meet the requirement that the Department of Law~~  
1089 ~~Enforcement conduct a state criminal history record check.~~

1090 Section 24. Subsection (1) of section 429.14, Florida  
1091 Statutes, is amended to read:

1092 429.14 Administrative penalties.—

1093 (1) In addition to the requirements of part II of chapter  
1094 408, the agency may deny, revoke, and suspend any license issued  
1095 under this part and impose an administrative fine in the manner  
1096 provided in chapter 120 against a licensee ~~of an assisted living~~  
1097 ~~facility~~ for a violation of any provision of this part, part II  
1098 of chapter 408, or applicable rules, or for any of the following  
1099 actions by a licensee ~~of an assisted living facility~~, for the  
1100 actions of any person subject to level 2 background screening  
1101 under s. 408.809, or for the actions of any facility employee:

1102 (a) An intentional or negligent act seriously affecting the

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1103 health, safety, or welfare of a resident of the facility.

1104 (b) The determination by the agency that the owner lacks  
1105 the financial ability to provide continuing adequate care to  
1106 residents.

1107 (c) Misappropriation or conversion of the property of a  
1108 resident of the facility.

1109 (d) Failure to follow the criteria and procedures provided  
1110 under part I of chapter 394 relating to the transportation,  
1111 voluntary admission, and involuntary examination of a facility  
1112 resident.

1113 (e) A citation of any of the following deficiencies as  
1114 specified in s. 429.19:

1115 1. One or more cited class I deficiencies.

1116 2. Three or more cited class II deficiencies.

1117 3. Five or more cited class III deficiencies that have been  
1118 cited on a single survey and have not been corrected within the  
1119 times specified.

1120 (f) Failure to comply with the ~~A determination that a~~  
1121 ~~person subject to level 2 background screening under s. 408.809~~  
1122 ~~does not meet the screening standards of this part, s.~~  
1123 408.809(1), chapter 435 s. 435.04 ~~or that the facility is~~  
1124 ~~retaining an employee subject to level 1 background screening~~  
1125 ~~standards under s. 429.174 who does not meet the screening~~  
1126 ~~standards of s. 435.03 and for whom exemptions from~~  
1127 ~~disqualification have not been provided by the agency.~~

1128 (g) ~~A determination that an employee, volunteer,~~  
1129 ~~administrator, or owner, or person who otherwise has access to~~  
1130 ~~the residents of a facility does not meet the criteria specified~~  
1131 ~~in s. 435.03(2), and the owner or administrator has not taken~~

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1132 ~~action to remove the person. Exemptions from disqualification~~  
 1133 ~~may be granted as set forth in s. 435.07. No administrative~~  
 1134 ~~action may be taken against the facility if the person is~~  
 1135 ~~granted an exemption.~~

1136 ~~(h)~~ Violation of a moratorium.

1137 (h) ~~(i)~~ Failure of the license applicant, the licensee  
 1138 during relicensure, or a licensee that holds a provisional  
 1139 license to meet the minimum license requirements of this part,  
 1140 or related rules, at the time of license application or renewal.

1141 (i) ~~(j)~~ An intentional or negligent life-threatening act in  
 1142 violation of the uniform firesafety standards for assisted  
 1143 living facilities or other firesafety standards that threatens  
 1144 the health, safety, or welfare of a resident of a facility, as  
 1145 communicated to the agency by the local authority having  
 1146 jurisdiction or the State Fire Marshal.

1147 (j) ~~(k)~~ Knowingly operating any unlicensed facility or  
 1148 providing without a license any service that must be licensed  
 1149 under this chapter or chapter 400.

1150 (k) ~~(l)~~ Any act constituting a ground upon which application  
 1151 for a license may be denied.

1152 Section 25. Section 429.174, Florida Statutes, is amended  
 1153 to read:

1154 429.174 Background screening; ~~exemptions.~~ The agency shall  
 1155 require level 2 background screening for personnel as required  
 1156 in s. 408.809(1)(e) pursuant to chapter 435 and s. 408.809 ~~The~~  
 1157 ~~owner or administrator of an assisted living facility must~~  
 1158 ~~conduct level 1 background screening, as set forth in chapter~~  
 1159 ~~435, on all employees hired on or after October 1, 1998, who~~  
 1160 ~~perform personal services as defined in s. 429.02(16).~~ The



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1161 ~~agency may exempt an individual from employment disqualification~~  
1162 ~~as set forth in chapter 435. Such persons shall be considered as~~  
1163 ~~having met this requirement if:~~

1164 ~~(1) Proof of compliance with level 1 screening requirements~~  
1165 ~~obtained to meet any professional license requirements in this~~  
1166 ~~state is provided and accompanied, under penalty of perjury, by~~  
1167 ~~a copy of the person's current professional license and an~~  
1168 ~~affidavit of current compliance with the background screening~~  
1169 ~~requirements.~~

1170 ~~(2) The person required to be screened has been~~  
1171 ~~continuously employed in the same type of occupation for which~~  
1172 ~~the person is seeking employment without a breach in service~~  
1173 ~~which exceeds 180 days, and proof of compliance with the level 1~~  
1174 ~~screening requirement which is no more than 2 years old is~~  
1175 ~~provided. Proof of compliance shall be provided directly from~~  
1176 ~~one employer or contractor to another, and not from the person~~  
1177 ~~screened. Upon request, a copy of screening results shall be~~  
1178 ~~provided by the employer retaining documentation of the~~  
1179 ~~screening to the person screened.~~

1180 ~~(3) The person required to be screened is employed by a~~  
1181 ~~corporation or business entity or related corporation or~~  
1182 ~~business entity that owns, operates, or manages more than one~~  
1183 ~~facility or agency licensed under this chapter, and for whom a~~  
1184 ~~level 1 screening was conducted by the corporation or business~~  
1185 ~~entity as a condition of initial or continued employment.~~

1186 Section 26. Subsection (4) of section 429.67, Florida  
1187 Statutes, is amended to read:

1188 429.67 Licensure.—

1189 (4) ~~Upon receipt of a completed license application or~~

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1190 ~~license renewal, and the fee,~~ The agency shall require level 2  
1191 ~~initiate a level 1~~ background screening for personnel as  
1192 required in s. 408.809(1)(e), including as provided under  
1193 ~~chapter 435 on~~ the adult family-care home provider, the  
1194 designated relief person, and all adult household members,  
1195 pursuant to chapter 435 and s. 408.809, ~~and all staff members.~~

1196 ~~(a) Proof of compliance with level 1 screening standards~~  
1197 ~~which has been submitted within the previous 5 years to meet any~~  
1198 ~~facility or professional licensure requirements of the agency or~~  
1199 ~~the Department of Health satisfies the requirements of this~~  
1200 ~~subsection. Such proof must be accompanied, under penalty of~~  
1201 ~~perjury, by a copy of the person's current professional license~~  
1202 ~~and an affidavit of current compliance with the background~~  
1203 ~~screening requirements.~~

1204 ~~(b) The person required to be screened must have been~~  
1205 ~~continuously employed in the same type of occupation for which~~  
1206 ~~the person is seeking employment without a breach in service~~  
1207 ~~that exceeds 180 days, and proof of compliance with the level 1~~  
1208 ~~screening requirement which is no more than 2 years old must be~~  
1209 ~~provided. Proof of compliance shall be provided directly from~~  
1210 ~~one employer or contractor to another, and not from the person~~  
1211 ~~screened. Upon request, a copy of screening results shall be~~  
1212 ~~provided to the person screened by the employer retaining~~  
1213 ~~documentation of the screening.~~

1214 Section 27. Section 429.69, Florida Statutes, is amended to  
1215 read:

1216 429.69 Denial, revocation, and suspension of a license.—In  
1217 addition to the requirements of part II of chapter 408, the  
1218 agency may deny, suspend, and revoke a license for any of the

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1219 following reasons:

1220 (1) Failure to comply with the ~~of any of the persons~~  
1221 ~~required to undergo~~ background screening standards of this part,  
1222 s. 408.809(1), or chapter 435 under s. 429.67 to meet the level  
1223 ~~1 screening standards of s. 435.03, unless an exemption from~~  
1224 ~~disqualification has been provided by the agency.~~

1225 (2) Failure to correct cited fire code violations that  
1226 threaten the health, safety, or welfare of residents.

1227 Section 28. Paragraph (c) of subsection (2) of section  
1228 429.911, Florida Statutes, is amended to read:

1229 429.911 Denial, suspension, revocation of license;  
1230 emergency action; administrative fines; investigations and  
1231 inspections.-

1232 (2) Each of the following actions by the owner of an adult  
1233 day care center or by its operator or employee is a ground for  
1234 action by the agency against the owner of the center or its  
1235 operator or employee:

1236 (c) A Failure to comply with the ~~of persons subject to~~  
1237 ~~level 2~~ background screening standards of this part, s.  
1238 408.809(1), or chapter 435 under s. 408.809 to meet the  
1239 ~~screening standards of s. 435.04, or the retention by the center~~  
1240 ~~of an employee subject to level 1 background screening standards~~  
1241 ~~under s. 429.174 who does not meet the screening standards of s.~~  
1242 ~~435.03 and for whom exemptions from disqualification have not~~  
1243 ~~been provided by the agency.~~

1244 Section 29. Section 429.919, Florida Statutes, is amended  
1245 to read:

1246 429.919 Background screening.-The agency shall require  
1247 level 2 background screening for personnel as required in s.

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1248 408.809(1)(e) pursuant to chapter 435 and s. 408.809 ~~The owner~~  
1249 ~~or administrator of an adult day care center must conduct level~~  
1250 ~~1 background screening as set forth in chapter 435 on all~~  
1251 ~~employees hired on or after October 1, 1998, who provide basic~~  
1252 ~~services or supportive and optional services to the~~  
1253 ~~participants. Such persons satisfy this requirement if:~~

1254 ~~(1) Proof of compliance with level 1 screening requirements~~  
1255 ~~obtained to meet any professional license requirements in this~~  
1256 ~~state is provided and accompanied, under penalty of perjury, by~~  
1257 ~~a copy of the person's current professional license and an~~  
1258 ~~affidavit of current compliance with the background screening~~  
1259 ~~requirements.~~

1260 ~~(2) The person required to be screened has been~~  
1261 ~~continuously employed, without a breach in service that exceeds~~  
1262 ~~180 days, in the same type of occupation for which the person is~~  
1263 ~~seeking employment and provides proof of compliance with the~~  
1264 ~~level 1 screening requirement which is no more than 2 years old.~~  
1265 ~~Proof of compliance must be provided directly from one employer~~  
1266 ~~or contractor to another, and not from the person screened. Upon~~  
1267 ~~request, a copy of screening results shall be provided to the~~  
1268 ~~person screened by the employer retaining documentation of the~~  
1269 ~~screening.~~

1270 ~~(3) The person required to be screened is employed by a~~  
1271 ~~corporation or business entity or related corporation or~~  
1272 ~~business entity that owns, operates, or manages more than one~~  
1273 ~~facility or agency licensed under chapter 400 or this chapter,~~  
1274 ~~and for whom a level 1 screening was conducted by the~~  
1275 ~~corporation or business entity as a condition of initial or~~  
1276 ~~continued employment.~~

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1277 Section 30. Section 430.60, Florida Statutes, is created to  
1278 read:

1279 430.60 Screening of direct service providers.—

1280 (1) (a) Level 2 background screening pursuant to chapter 435  
1281 is required for direct service providers. Background screening  
1282 shall include employment history checks as provided in s.  
1283 435.03(1) and local criminal records checks through local law  
1284 enforcement agencies.

1285 (b) For purposes of this section, the term "direct service  
1286 provider" means a person 18 years of age or older who is  
1287 unrelated to his or her clients and who has direct, face-to-face  
1288 contact with a client while providing services to the client and  
1289 has access to the client's living areas or to the client's funds  
1290 or personal property. The term includes coordinators, managers,  
1291 and supervisors of residential facilities and volunteers.

1292 (2) Licensed physicians, nurses, or other professionals  
1293 licensed by the Department of Health are not subject to  
1294 background screening pursuant to this section if they are  
1295 providing a service that is within the scope of their licensed  
1296 practice.

1297 (3) Refusal on the part of an employer to dismiss a  
1298 manager, supervisor, or direct service provider who has been  
1299 found to be in noncompliance with standards of this section  
1300 shall result in the automatic denial, termination, or revocation  
1301 of the license or certification, rate agreement, purchase order,  
1302 or contract, in addition to any other remedies authorized by  
1303 law.

1304 (4) The background screening conducted pursuant to this  
1305 section must ensure that, in addition to the disqualifying

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1306 offenses listed in s. 435.04, no persons subject to the  
1307 provisions of this section have been found guilty of, regardless  
1308 of adjudication, or entered a plea of nolo contendere or guilty  
1309 to, any offense prohibited under any of the following provisions  
1310 of the Florida Statutes or under any similar statute of another  
1311 jurisdiction:

1312 (a) Any authorizing statutes, if the offense was a felony.

1313 (b) Section 409.920, relating to Medicaid provider fraud.

1314 (c) Section 409.9201, relating to Medicaid fraud.

1315 (d) Section 817.034, relating to fraudulent acts through  
1316 mail, wire, radio, electromagnetic, photoelectronic, or  
1317 photooptical systems.

1318 (e) Section 817.234, relating to false and fraudulent  
1319 insurance claims.

1320 (f) Section 817.505, relating to patient brokering.

1321 (g) Section 817.568, relating to criminal use of personal  
1322 identification information.

1323 (h) Section 817.60, relating to obtaining a credit card  
1324 through fraudulent means.

1325 (i) Section 817.61, relating to fraudulent use of credit  
1326 cards, if the offense was a felony.

1327 (j) Section 831.01, relating to forgery.

1328 (k) Section 831.02, relating to uttering forged  
1329 instruments.

1330 (l) Section 831.07, relating to forging bank bills, checks,  
1331 drafts, or promissory notes.

1332 (m) Section 831.09, relating to uttering forged bank bills,  
1333 checks, drafts, or promissory notes.

1334 Section 31. Section 435.01, Florida Statutes, is amended to

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1335 read:

1336 435.01 Applicability of this chapter; statutory references;  
1337 rulemaking.—

1338 (1) (a) Unless otherwise provided by law, whenever a  
1339 background screening for employment or a background security  
1340 check is required by law to be conducted pursuant to this  
1341 chapter for employment, unless otherwise provided by law, the  
1342 provisions of this chapter shall apply.

1343 (b) Unless expressly provided otherwise, a reference in any  
1344 section of the Florida Statutes to chapter 435 or to any section  
1345 or sections or portion of a section of chapter 435 includes, and  
1346 shall be understood as including, all subsequent amendments to  
1347 chapter 435 or to the referenced section or sections or portions  
1348 of a section. The purpose of this chapter is to facilitate  
1349 uniform background screening and, to this end, a reference to  
1350 this chapter, or to any section or subdivision within this  
1351 chapter, constitutes a general reference under the doctrine of  
1352 incorporation by reference.

1353 (2) Agencies may adopt rules pursuant to ss. 120.536(1) and  
1354 120.54 necessary to implement the provisions of this chapter.

1355 Section 32. Section 435.02, Florida Statutes, is reordered  
1356 and amended to read:

1357 435.02 Definitions.—For the purposes of this chapter, the  
1358 term:

1359 (2)(1) "Employee" means any person required by law to be  
1360 screened pursuant to the provisions of this chapter.

1361 (3)(2) "Employer" means any person or entity required by  
1362 law to conduct screening of employees pursuant to this chapter.

1363 (1)(3) "Licensing Agency" means any state, or county, or

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1364 municipal agency that ~~which~~ grants licenses or registration  
1365 permitting the operation of an employer or is itself an employer  
1366 or that otherwise facilitates the screening of employees  
1367 pursuant to this chapter. When there is no state ~~licensing~~  
1368 agency or the municipal or county ~~licensing~~ agency chooses not  
1369 to conduct employment screening, "~~licensing~~ agency" means the  
1370 Department of Children and Family Services.

1371 (4) "Employment" means any activity or service sought to be  
1372 performed by an employee that requires the employee to be  
1373 subject to screening pursuant to this chapter.

1374 (5) "Vulnerable person" means a minor or a vulnerable adult  
1375 as defined in s. 415.102.

1376 Section 33. Section 435.03, Florida Statutes, is amended to  
1377 read:

1378 435.03 Level 1 screening standards.—

1379 (1) All employees required by law to be screened pursuant  
1380 to this section must ~~shall be required to~~ undergo background  
1381 screening as a condition of employment and continued employment  
1382 that includes. ~~For the purposes of this subsection, level 1~~  
1383 ~~screenings shall include,~~ but need not be limited to, employment  
1384 history checks and statewide criminal correspondence checks  
1385 through the ~~Florida~~ Department of Law Enforcement, and may  
1386 include local criminal records checks through local law  
1387 enforcement agencies.

1388 (2) Any person required by law to be screened pursuant to  
1389 this section ~~for whom employment screening is required by~~  
1390 ~~statute~~ must not have been found guilty of, regardless of  
1391 adjudication, or entered a plea of nolo contendere or guilty to,  
1392 any offense prohibited under any provision of s. 435.04(2) ~~of~~



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1393 ~~the following provisions of the Florida Statutes or under any~~  
1394 ~~similar statute of another jurisdiction.~~÷

1395 ~~(a) Section 393.135, relating to sexual misconduct with~~  
1396 ~~certain developmentally disabled clients and reporting of such~~  
1397 ~~sexual misconduct.~~

1398 ~~(b) Section 394.4593, relating to sexual misconduct with~~  
1399 ~~certain mental health patients and reporting of such sexual~~  
1400 ~~misconduct.~~

1401 ~~(c) Section 415.111, relating to abuse, neglect, or~~  
1402 ~~exploitation of a vulnerable adult.~~

1403 ~~(d) Section 782.04, relating to murder.~~

1404 ~~(e) Section 782.07, relating to manslaughter, aggravated~~  
1405 ~~manslaughter of an elderly person or disabled adult, or~~  
1406 ~~aggravated manslaughter of a child.~~

1407 ~~(f) Section 782.071, relating to vehicular homicide.~~

1408 ~~(g) Section 782.09, relating to killing of an unborn quick~~  
1409 ~~child by injury to the mother.~~

1410 ~~(h) Section 784.011, relating to assault, if the victim of~~  
1411 ~~the offense was a minor.~~

1412 ~~(i) Section 784.021, relating to aggravated assault.~~

1413 ~~(j) Section 784.03, relating to battery, if the victim of~~  
1414 ~~the offense was a minor.~~

1415 ~~(k) Section 784.045, relating to aggravated battery.~~

1416 ~~(l) Section 787.01, relating to kidnapping.~~

1417 ~~(m) Section 787.02, relating to false imprisonment.~~

1418 ~~(n) Section 794.011, relating to sexual battery.~~

1419 ~~(o) Former s. 794.041, relating to prohibited acts of~~  
1420 ~~persons in familial or custodial authority.~~

1421 ~~(p) Chapter 796, relating to prostitution.~~

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- 1422       ~~(q) Section 798.02, relating to lewd and lascivious~~  
1423 ~~behavior.~~
- 1424       ~~(r) Chapter 800, relating to lewdness and indecent~~  
1425 ~~exposure.~~
- 1426       ~~(s) Section 806.01, relating to arson.~~
- 1427       ~~(t) Chapter 812, relating to theft, robbery, and related~~  
1428 ~~crimes, if the offense was a felony.~~
- 1429       ~~(u) Section 817.563, relating to fraudulent sale of~~  
1430 ~~controlled substances, only if the offense was a felony.~~
- 1431       ~~(v) Section 825.102, relating to abuse, aggravated abuse,~~  
1432 ~~or neglect of an elderly person or disabled adult.~~
- 1433       ~~(w) Section 825.1025, relating to lewd or lascivious~~  
1434 ~~offenses committed upon or in the presence of an elderly person~~  
1435 ~~or disabled adult.~~
- 1436       ~~(x) Section 825.103, relating to exploitation of an elderly~~  
1437 ~~person or disabled adult, if the offense was a felony.~~
- 1438       ~~(y) Section 826.04, relating to incest.~~
- 1439       ~~(z) Section 827.03, relating to child abuse, aggravated~~  
1440 ~~child abuse, or neglect of a child.~~
- 1441       ~~(aa) Section 827.04, relating to contributing to the~~  
1442 ~~delinquency or dependency of a child.~~
- 1443       ~~(bb) Former s. 827.05, relating to negligent treatment of~~  
1444 ~~children.~~
- 1445       ~~(cc) Section 827.071, relating to sexual performance by a~~  
1446 ~~child.~~
- 1447       ~~(dd) Chapter 847, relating to obscene literature.~~
- 1448       ~~(ee) Chapter 893, relating to drug abuse prevention and~~  
1449 ~~control, only if the offense was a felony or if any other person~~  
1450 ~~involved in the offense was a minor.~~

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1451 ~~(ff) Section 916.1075, relating to sexual misconduct with~~  
1452 ~~certain forensic clients and reporting of such sexual~~  
1453 ~~misconduct.~~

1454 (3) The security background investigations under this  
1455 section must ensure that no person subject to the provisions of  
1456 this section has been found guilty of, regardless of  
1457 adjudication, or entered a plea of nolo contendere or guilty to,  
1458 any offense that constitutes domestic violence as defined in s.  
1459 741.28, whether such act was committed in this state or in  
1460 another jurisdiction Standards must also ensure that the person:

1461 ~~(a) For employees and employers licensed or registered~~  
1462 ~~pursuant to chapter 400 or chapter 429, and for employees and~~  
1463 ~~employers of developmental disabilities centers as defined in s.~~  
1464 ~~393.063, intermediate care facilities for the developmentally~~  
1465 ~~disabled as defined in s. 400.960, and mental health treatment~~  
1466 ~~facilities as defined in s. 394.455, meets the requirements of~~  
1467 ~~this chapter.~~

1468 ~~(b) Has not committed an act that constitutes domestic~~  
1469 ~~violence as defined in s. 741.28.~~

1470 Section 34. Section 435.04, Florida Statutes, is amended to  
1471 read:

1472 435.04 Level 2 screening standards.-

1473 (1)(a) All employees required by law to be screened  
1474 pursuant to this section must in positions designated by law as  
1475 positions of trust or responsibility shall be required to  
1476 undergo security background investigations as a condition of  
1477 employment and continued employment that includes. ~~For the~~  
1478 ~~purposes of this subsection, security background investigations~~  
1479 ~~shall include, but need not be limited to, fingerprinting for~~

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1480 statewide criminal history records ~~all purposes and~~ checks in  
1481 ~~this subsection, statewide criminal and juvenile records checks~~  
1482 through the ~~Florida~~ Department of Law Enforcement, and national  
1483 ~~federal~~ criminal records checks through the Federal Bureau of  
1484 Investigation, and may include local criminal records checks  
1485 through local law enforcement agencies.

1486 (b) Fingerprints submitted pursuant to this section on or  
1487 after July 1, 2012, must be submitted electronically to the  
1488 Department of Law Enforcement by, or on the behalf of, the  
1489 employee or employer.

1490 (c) An agency may contract with one or more vendors to  
1491 perform all or part of the electronic fingerprinting pursuant to  
1492 this section. Such contracts must ensure that the owners and  
1493 personnel of the vendor performing the electronic fingerprinting  
1494 are qualified and will ensure the integrity and security of all  
1495 personal information.

1496 (d) An agency may require by rule adopted pursuant to  
1497 chapter 120 that fingerprints submitted pursuant to this section  
1498 must be submitted electronically to the Department of Law  
1499 Enforcement by, or on the behalf of, the employee or employer on  
1500 a date earlier than July 1, 2012.

1501 (2) The security background investigations under this  
1502 section must ensure that no persons subject to the provisions of  
1503 this section have been found guilty of, regardless of  
1504 adjudication, or entered a plea of nolo contendere or guilty to,  
1505 any offense prohibited under any of the following provisions of  
1506 the Florida Statutes or under any similar statute of another  
1507 jurisdiction:

1508 (a) Section 393.135, relating to sexual misconduct with

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1509 certain developmentally disabled clients and reporting of such  
1510 sexual misconduct.

1511 (b) Section 394.4593, relating to sexual misconduct with  
1512 certain mental health patients and reporting of such sexual  
1513 misconduct.

1514 (c) Section 415.111, relating to adult abuse, neglect, or  
1515 exploitation of aged persons or disabled adults.

1516 (d) Section 782.04, relating to murder.

1517 (e) Section 782.07, relating to manslaughter, aggravated  
1518 manslaughter of an elderly person or disabled adult, or  
1519 aggravated manslaughter of a child.

1520 (f) Section 782.071, relating to vehicular homicide.

1521 (g) Section 782.09, relating to killing of an unborn quick  
1522 child by injury to the mother.

1523 (h) Chapter 784, relating to assault, battery, and culpable  
1524 negligence, if the offense was a felony.

1525 (i)~~(h)~~ Section 784.011, relating to assault, if the victim  
1526 of the offense was a minor.

1527 ~~(i) Section 784.021, relating to aggravated assault.~~

1528 (j) Section 784.03, relating to battery, if the victim of  
1529 the offense was a minor.

1530 ~~(k) Section 784.045, relating to aggravated battery.~~

1531 ~~(l) Section 784.075, relating to battery on a detention or~~  
1532 ~~commitment facility staff.~~

1533 (k)~~(m)~~ Section 787.01, relating to kidnapping.

1534 (l)~~(n)~~ Section 787.02, relating to false imprisonment.

1535 (m) Section 787.025, relating to luring or enticing a  
1536 child.

1537 (n)~~(o)~~ Section 787.04(2), relating to taking, enticing, or

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1538 removing a child beyond the state limits with criminal intent  
1539 pending custody proceedings.

1540 (o)~~(p)~~ Section 787.04(3), relating to carrying a child  
1541 beyond the state lines with criminal intent to avoid producing a  
1542 child at a custody hearing or delivering the child to the  
1543 designated person.

1544 (p)~~(q)~~ Section 790.115(1), relating to exhibiting firearms  
1545 or weapons within 1,000 feet of a school.

1546 (q)~~(r)~~ Section 790.115(2)(b), relating to possessing an  
1547 electric weapon or device, destructive device, or other weapon  
1548 on school property.

1549 (r)~~(s)~~ Section 794.011, relating to sexual battery.

1550 (s)~~(t)~~ Former s. 794.041, relating to prohibited acts of  
1551 persons in familial or custodial authority.

1552 (t) Section 794.05, relating to unlawful sexual activity  
1553 with certain minors.

1554 (u) Chapter 796, relating to prostitution.

1555 (v) Section 798.02, relating to lewd and lascivious  
1556 behavior.

1557 (w) Chapter 800, relating to lewdness and indecent  
1558 exposure.

1559 (x) Section 806.01, relating to arson.

1560 (y) Section 810.02, relating to burglary.

1561 (z) Section 810.14, relating to voyeurism, if the offense  
1562 is a felony.

1563 (aa) Section 810.145, relating to video voyeurism, if the  
1564 offense is a felony.

1565 (bb)~~(y)~~ Chapter 812, relating to theft, robbery, and  
1566 related crimes, if the offense is a felony.

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1567        ~~(cc)~~(z) Section 817.563, relating to fraudulent sale of  
1568 controlled substances, only if the offense was a felony.

1569        ~~(dd)~~(aa) Section 825.102, relating to abuse, aggravated  
1570 abuse, or neglect of an elderly person or disabled adult.

1571        ~~(ee)~~(bb) Section 825.1025, relating to lewd or lascivious  
1572 offenses committed upon or in the presence of an elderly person  
1573 or disabled adult.

1574        ~~(ff)~~(cc) Section 825.103, relating to exploitation of an  
1575 elderly person or disabled adult, if the offense was a felony.

1576        ~~(gg)~~(dd) Section 826.04, relating to incest.

1577        ~~(hh)~~(ee) Section 827.03, relating to child abuse,  
1578 aggravated child abuse, or neglect of a child.

1579        ~~(ii)~~(ff) Section 827.04, relating to contributing to the  
1580 delinquency or dependency of a child.

1581        ~~(jj)~~(gg) Former s. 827.05, relating to negligent treatment  
1582 of children.

1583        ~~(kk)~~(hh) Section 827.071, relating to sexual performance by  
1584 a child.

1585        ~~(ll)~~(ii) Section 843.01, relating to resisting arrest with  
1586 violence.

1587        ~~(mm)~~(jj) Section 843.025, relating to depriving a law  
1588 enforcement, correctional, or correctional probation officer  
1589 means of protection or communication.

1590        ~~(nn)~~(kk) Section 843.12, relating to aiding in an escape.

1591        ~~(oo)~~(ll) Section 843.13, relating to aiding in the escape  
1592 of juvenile inmates in correctional institutions.

1593        ~~(pp)~~(mm) Chapter 847, relating to obscene literature.

1594        ~~(qq)~~(nn) Section 874.05(1), relating to encouraging or  
1595 recruiting another to join a criminal gang.

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1596        (rr)~~(oo)~~ Chapter 893, relating to drug abuse prevention and  
 1597 control, only if the offense was a felony or if any other person  
 1598 involved in the offense was a minor.

1599        (ss)~~(pp)~~ Section 916.1075, relating to sexual misconduct  
 1600 with certain forensic clients and reporting of such sexual  
 1601 misconduct.

1602        (tt)~~(qq)~~ Section 944.35(3), relating to inflicting cruel or  
 1603 inhuman treatment on an inmate resulting in great bodily harm.

1604        (uu) Section 944.40, relating to escape.

1605        (vv)~~(rr)~~ Section 944.46, relating to harboring, concealing,  
 1606 or aiding an escaped prisoner.

1607        (ww)~~(ss)~~ Section 944.47, relating to introduction of  
 1608 contraband into a correctional facility.

1609        (xx)~~(tt)~~ Section 985.701, relating to sexual misconduct in  
 1610 juvenile justice programs.

1611        (yy)~~(uu)~~ Section 985.711, relating to contraband introduced  
 1612 into detention facilities.

1613        (3) The security background investigations under this  
 1614 section must ensure that no person subject to this section has  
 1615 been found guilty of, regardless of adjudication, or entered a  
 1616 plea of nolo contendere or guilty to, any offense that  
 1617 constitutes domestic violence as defined in s. 741.28, whether  
 1618 such act was committed in this state or in another jurisdiction.  
 1619 ~~The security background investigations conducted under this~~  
 1620 ~~section for employees of the Department of Juvenile Justice must~~  
 1621 ~~ensure that no persons subject to the provisions of this section~~  
 1622 ~~have been found guilty of, regardless of adjudication, or~~  
 1623 ~~entered a plea of nolo contendere or guilty to, any offense~~  
 1624 ~~prohibited under any of the following provisions of the Florida~~



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1625 ~~Statutes or under any similar statute of another jurisdiction:~~

1626 ~~(a) Section 784.07, relating to assault or battery of law~~  
1627 ~~enforcement officers, firefighters, emergency medical care~~  
1628 ~~providers, public transit employees or agents, or other~~  
1629 ~~specified officers.~~

1630 ~~(b) Section 810.02, relating to burglary, if the offense is~~  
1631 ~~a felony.~~

1632 ~~(c) Section 944.40, relating to escape.~~

1633

1634 ~~The Department of Juvenile Justice may not remove a~~  
1635 ~~disqualification from employment or grant an exemption to any~~  
1636 ~~person who is disqualified under this section for any offense~~  
1637 ~~disposed of during the most recent 7-year period.~~

1638 ~~(4) Standards must also ensure that the person:~~

1639 ~~(a) For employees or employers licensed or registered~~  
1640 ~~pursuant to chapter 400 or chapter 429, does not have a~~  
1641 ~~confirmed report of abuse, neglect, or exploitation as defined~~  
1642 ~~in s. 415.102(6), which has been uncontested or upheld under s.~~  
1643 ~~415.103.~~

1644 ~~(b) Has not committed an act that constitutes domestic~~  
1645 ~~violence as defined in s. 741.30.~~

1646 ~~(5) Under penalty of perjury, all employees in such~~  
1647 ~~positions of trust or responsibility shall attest to meeting the~~  
1648 ~~requirements for qualifying for employment and agreeing to~~  
1649 ~~inform the employer immediately if convicted of any of the~~  
1650 ~~disqualifying offenses while employed by the employer. Each~~  
1651 ~~employer of employees in such positions of trust or~~  
1652 ~~responsibilities which is licensed or registered by a state~~  
1653 ~~agency shall submit to the licensing agency annually or at the~~

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1654 ~~time of license renewal, under penalty of perjury, an affidavit~~  
1655 ~~of compliance with the provisions of this section.~~

1656 Section 35. Section 435.05, Florida Statutes, is amended to  
1657 read:

1658 435.05 Requirements for covered employees and employers.—  
1659 Except as otherwise provided by law, the following requirements  
1660 shall apply to covered employees and employers:

1661 (1) (a) Every person required by law to be screened pursuant  
1662 to the provisions of this chapter must ~~employed in a position~~  
1663 ~~for which employment screening is required must, within 5~~  
1664 ~~working days after starting to work, submit to the employer a~~  
1665 complete set of information necessary to conduct a screening  
1666 under this chapter ~~section~~.

1667 (b) For level 1 screening, the employer must submit the  
1668 information necessary for screening to the ~~Florida~~ Department of  
1669 Law Enforcement within 5 working days after receiving it. The  
1670 ~~Florida~~ Department of Law Enforcement will conduct a search of  
1671 its records and will respond to the employer or agency. The  
1672 employer will inform the employee whether screening has revealed  
1673 any disqualifying information.

1674 (c) For level 2 screening, the employer or ~~licensing~~ agency  
1675 must submit the information necessary for screening to the  
1676 ~~Florida~~ Department of Law Enforcement within 5 working days  
1677 after receiving it. The ~~Florida~~ Department of Law Enforcement  
1678 will perform a criminal history record check of its ~~conduct a~~  
1679 ~~search of its criminal and juvenile~~ records and will request  
1680 that the Federal Bureau of Investigation perform a national  
1681 criminal history record check ~~conduct a search~~ of its records  
1682 for each employee for whom the request is made. The ~~Florida~~

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1683 Department of Law Enforcement will respond to the employer or  
1684 ~~licensing~~ agency, and the employer or ~~licensing~~ agency will  
1685 inform the employee whether screening has revealed disqualifying  
1686 information.

1687 (d) The person whose background is being checked must  
1688 supply any missing criminal or other necessary information upon  
1689 request to the requesting employer or agency within 30 days  
1690 after receiving the ~~employer makes a~~ request for the information  
1691 ~~or be subject to automatic disqualification.~~

1692 (2) Every employee must attest, subject to penalty of  
1693 perjury, to meeting the requirements for qualifying for  
1694 employment pursuant to this chapter and agreeing to inform the  
1695 employer immediately if arrested for any of the disqualifying  
1696 offenses while employed by the employer ~~Unless otherwise~~  
1697 ~~prohibited by state or federal law, new employees may be placed~~  
1698 ~~on probationary status pending a determination of compliance~~  
1699 ~~with minimum standards set forth in this chapter.~~

1700 (3) Each employer that is licensed or registered with an  
1701 agency and is required by law to conduct level 2 background  
1702 screening must submit to the agency sign an affidavit annually  
1703 or at the time of license renewal, under penalty of perjury, a  
1704 signed affidavit attesting to compliance with the provisions of  
1705 this chapter ~~stating that all covered employees have been~~  
1706 ~~screened or are newly hired and are awaiting the results of the~~  
1707 ~~required screening checks.~~

1708 Section 36. Section 435.06, Florida Statutes, is amended to  
1709 read:

1710 435.06 Exclusion from employment.—

1711 (1) When an employer or ~~licensing~~ agency has reasonable

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1712 cause to believe that grounds exist for the denial or  
1713 termination of employment of any employee as a result of  
1714 background screening, it shall notify the employee in writing,  
1715 stating the specific record that ~~which~~ indicates noncompliance  
1716 with the standards in this chapter ~~section~~. It shall be the  
1717 responsibility of the affected employee to contest his or her  
1718 disqualification or to request exemption from disqualification.  
1719 The only basis for contesting the disqualification shall be  
1720 proof of mistaken identity.

1721 (2) (a) An employer may not hire, select, or otherwise allow  
1722 an employee to have contact with any vulnerable person that  
1723 would place the employee in a role that would require background  
1724 screening until such time as the screening process is completed  
1725 and demonstrates the absence of any grounds for the denial or  
1726 termination of employment. If the screening process shows any  
1727 grounds for the denial or termination of employment, the  
1728 employer may not hire, select, or otherwise allow the employee  
1729 to have contact with any vulnerable person that would place the  
1730 employee in a role that would require background screening  
1731 unless the employee is granted an exemption for the  
1732 disqualification by the agency as provided under s. 435.07.

1733 (b) If at any time an employer becomes aware that an  
1734 employee has been arrested for a disqualifying offense, the  
1735 employer must remove the employee from contact with any  
1736 vulnerable person that would place the employee in a role that  
1737 would require background screening until such time as the arrest  
1738 is resolved in such a way that the employer determines that the  
1739 employee is still eligible for employment under this chapter.

1740 (c) The employer must either terminate the employment of

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1741 any of its personnel found to be in noncompliance with the  
1742 minimum standards of this chapter ~~for good moral character~~  
1743 ~~contained in this section~~ or place the employee in a position  
1744 for which background screening is not required unless the  
1745 employee is granted an exemption from disqualification pursuant  
1746 to s. 435.07.

1747 (3) Any employee ~~person who is required to undergo~~  
1748 ~~employment screening and~~ who refuses to cooperate in such  
1749 screening or refuses to timely submit the information necessary  
1750 to complete the screening, including fingerprints when required,  
1751 must ~~shall~~ be disqualified for employment in such position or,  
1752 if employed, must ~~shall~~ be dismissed.

1753 Section 37. Section 435.07, Florida Statutes, is amended to  
1754 read:

1755 435.07 Exemptions from disqualification.—Unless otherwise  
1756 provided by law, the provisions of this section shall apply to  
1757 exemptions from disqualification pursuant to this chapter.

1758 (1) The head of the appropriate ~~licensing~~ agency may grant  
1759 to any employee otherwise disqualified from employment an  
1760 exemption from disqualification for:

1761 (a) Felonies for which at least 3 years have elapsed since  
1762 the applicant for the exemption has completed or been lawfully  
1763 released from confinement, supervision, or sanction for the  
1764 disqualifying felony ~~committed more than 3 years prior to the~~  
1765 ~~date of disqualification;~~

1766 (b) Misdemeanors prohibited under any of the Florida  
1767 Statutes cited in this chapter or under similar statutes of  
1768 other jurisdictions;

1769 (c) Offenses that were felonies when committed but are now

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1770 misdemeanors; or

1771 (d) Findings of delinquency; ~~or~~

1772 ~~(e) Commissions of acts of domestic violence as defined in~~  
1773 ~~s. 741.30.~~

1774

1775 For the purposes of this subsection, the term "felonies" means  
1776 both felonies prohibited under any of the Florida Statutes cited  
1777 in this chapter or under similar statutes of other  
1778 jurisdictions.

1779 (2) Persons employed, or applicants for employment, by  
1780 treatment providers who treat adolescents 13 years of age and  
1781 older who are disqualified from employment solely because of  
1782 crimes under s. 817.563, s. 893.13, or s. 893.147 may be  
1783 exempted from disqualification from employment pursuant to this  
1784 chapter section without application of the 3-year waiting period  
1785 in paragraph (1) (a).

1786 (3) (a) In order for the head of an agency ~~a licensing~~  
1787 ~~department~~ to grant an exemption to any employee, the employee  
1788 must demonstrate by clear and convincing evidence that the  
1789 employee should not be disqualified from employment. Employees  
1790 seeking an exemption have the burden of setting forth clear and  
1791 convincing ~~sufficient~~ evidence of rehabilitation, including, but  
1792 not limited to, the circumstances surrounding the criminal  
1793 incident for which an exemption is sought, the time period that  
1794 has elapsed since the incident, the nature of the harm caused to  
1795 the victim, and the history of the employee since the incident,  
1796 or any other evidence or circumstances indicating that the  
1797 employee will not present a danger if employment or continued  
1798 employment is allowed.

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1799        (b) The agency may consider as part of its deliberations of  
1800 the employee's rehabilitation the fact that the employee has,  
1801 subsequent to the conviction for the disqualifying offense for  
1802 which the exemption is being sought, been arrested for or  
1803 convicted of another crime, even if that crime is not a  
1804 disqualifying offense.

1805        (c) The decision of the head of an agency licensing  
1806 department regarding an exemption may be contested through the  
1807 hearing procedures set forth in chapter 120. The standard of  
1808 review by the administrative law judge is whether the agency's  
1809 intended action is an abuse of discretion.

1810        (4) (a) Disqualification from employment under this chapter  
1811 subsection (1) may not be removed from, nor may an exemption be  
1812 granted to, any personnel who is found guilty of, regardless of  
1813 adjudication, or who has entered a plea of nolo contendere or  
1814 guilty to, any felony covered by s. 435.03 or s. 435.04 solely  
1815 by reason of any pardon, executive clemency, or restoration of  
1816 civil rights.

1817        (b) Disqualification from employment under this chapter may  
1818 not be removed from, nor may an exemption be granted to, any  
1819 person who has been designated as a sexual predator pursuant to  
1820 s. 775.21.

1821        (5) Exemptions granted by one ~~licensing~~ agency shall be  
1822 considered by subsequent ~~licensing~~ agencies, but are not binding  
1823 on the subsequent ~~licensing~~ agency.

1824        Section 38. Section 435.08, Florida Statutes, is amended to  
1825 read:

1826        435.08 Payment for processing of fingerprints and state  
1827 criminal records checks.—Either the employer or the employee is

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1828 responsible for paying the costs of screening. Payment shall be  
1829 submitted to the ~~Florida~~ Department of Law Enforcement with the  
1830 request for screening. The appropriate agency is responsible for  
1831 collecting and paying any fee related to fingerprints retained  
1832 on its behalf to the Department of Law Enforcement for costs  
1833 resulting from the fingerprint information retention services.  
1834 The amount of the annual fee and procedures for the submission  
1835 and retention of fingerprint information and for the  
1836 dissemination of search results shall be established by rule of  
1837 the Department of Law Enforcement.

1838 Section 39. Subsection (1) of section 464.203, Florida  
1839 Statutes, is amended to read:

1840 464.203 Certified nursing assistants; certification  
1841 requirement.—

1842 (1) The board shall issue a certificate to practice as a  
1843 certified nursing assistant to any person who demonstrates a  
1844 minimum competency to read and write and successfully passes the  
1845 required background ~~Level I or Level II~~ screening pursuant to s.  
1846 400.215 and meets one of the following requirements:

1847 (a) Has successfully completed an approved training program  
1848 and achieved a minimum score, established by rule of the board,  
1849 on the nursing assistant competency examination, which consists  
1850 of a written portion and skills-demonstration portion approved  
1851 by the board and administered at a site and by personnel  
1852 approved by the department.

1853 (b) Has achieved a minimum score, established by rule of  
1854 the board, on the nursing assistant competency examination,  
1855 which consists of a written portion and skills-demonstration  
1856 portion, approved by the board and administered at a site and by



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1857 personnel approved by the department and:

- 1858 1. Has a high school diploma, or its equivalent; or  
1859 2. Is at least 18 years of age.

1860 (c) Is currently certified in another state; is listed on  
1861 that state's certified nursing assistant registry; and has not  
1862 been found to have committed abuse, neglect, or exploitation in  
1863 that state.

1864 (d) Has completed the curriculum developed under the  
1865 Enterprise Florida Jobs and Education Partnership Grant and  
1866 achieved a minimum score, established by rule of the board, on  
1867 the nursing assistant competency examination, which consists of  
1868 a written portion and skills-demonstration portion, approved by  
1869 the board and administered at a site and by personnel approved  
1870 by the department.

1871 Section 40. Subsection (9) of section 489.115, Florida  
1872 Statutes, is amended to read:

1873 489.115 Certification and registration; endorsement;  
1874 reciprocity; renewals; continuing education.—

1875 (9) An initial applicant shall submit, along with the  
1876 application, a complete set of fingerprints in a form and manner  
1877 required by the department. The fingerprints shall be submitted  
1878 to the Department of Law Enforcement for state processing, and  
1879 the Department of Law Enforcement shall forward them to the  
1880 Federal Bureau of Investigation for the purpose of processing  
1881 the fingerprint submission to determine if the applicant has a  
1882 criminal history record ~~conducting a level 2 background check~~  
1883 ~~pursuant to s. 435.04~~. The department shall and the board may  
1884 review the background results to determine if an applicant meets  
1885 licensure requirements. The cost for the fingerprint processing

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1886 shall be borne by the person subject to the background  
1887 screening. These fees are to be collected by the authorized  
1888 agencies or vendors. The authorized agencies or vendors are  
1889 responsible for paying the processing costs to the Department of  
1890 Law Enforcement.

1891 Section 41. Paragraphs (g) and (h) of subsection (2) of  
1892 section 943.05, Florida Statutes, are amended, and subsection  
1893 (4) is added to that section, to read:

1894 943.05 Criminal Justice Information Program; duties; crime  
1895 reports.—

1896 (2) The program shall:

1897 (g) Upon official written request from the agency executive  
1898 director or secretary, or from his or her designee, or from  
1899 qualified entities participating in the volunteer and employee  
1900 criminal history screening system under s. 943.0542, or as  
1901 otherwise required ~~As authorized~~ by law, retain fingerprints  
1902 submitted by criminal and noncriminal justice agencies to the  
1903 department for a criminal history background screening in a  
1904 manner provided by rule and enter the fingerprints in the  
1905 statewide automated fingerprint identification system authorized  
1906 by paragraph (b). Such fingerprints shall thereafter be  
1907 available for all purposes and uses authorized for arrest  
1908 fingerprint submissions ~~cards~~ entered into the statewide  
1909 automated fingerprint identification system pursuant to s.  
1910 943.051.

1911 (h) ~~1.~~ For each agency or qualified entity that officially  
1912 requests retention of fingerprints or for which retention is  
1913 otherwise required ~~As authorized~~ by law, search all arrest  
1914 fingerprint submissions ~~cards~~ received under s. 943.051 against

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1915 the fingerprints retained in the statewide automated fingerprint  
1916 identification system under paragraph (g).

1917 1. Any arrest record that is identified with the retained  
1918 fingerprints of a person subject to background screening as  
1919 provided in paragraph (g) shall be reported to the appropriate  
1920 agency or qualified entity.

1921 2. To Agencies may participate in this search process,  
1922 agencies or qualified entities must notify each person  
1923 fingerprinted that his or her fingerprints will be retained, pay  
1924 by payment of an annual fee to the department, and inform by  
1925 informing the department of any change in the affiliation,  
1926 employment, or contractual status or place of affiliation,  
1927 employment, or contracting of each person the persons whose  
1928 fingerprints are retained under paragraph (g) when such change  
1929 removes or eliminates the agency or qualified entity's basis or  
1930 need for receiving reports of any arrest of that person, so that  
1931 the agency or qualified entity will not be obligated to pay the  
1932 upcoming annual fee for the retention and searching of that  
1933 person's fingerprints to the department. The department shall  
1934 adopt a rule setting the amount of the annual fee to be imposed  
1935 upon each participating agency or qualified entity for  
1936 performing these searches and establishing the procedures for  
1937 the retention of fingerprints and the dissemination of search  
1938 results. The fee may be borne by the agency, qualified entity,  
1939 or person subject to fingerprint retention or as otherwise  
1940 provided by law. Fees may be waived or reduced by the executive  
1941 director for good cause shown. Consistent with the recognition  
1942 of criminal justice agencies expressed in s. 943.053(3), these  
1943 services will be provided to criminal justice agencies for

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1944 criminal justice purposes free of charge.

1945 3. Agencies that participate in the fingerprint retention  
1946 and search process may adopt rules pursuant to ss. 120.536(1)  
1947 and 120.54 to require employers to keep the agency informed of  
1948 any change in the affiliation, employment, or contractual status  
1949 of each person whose fingerprints are retained under paragraph  
1950 (g) when such change removes or eliminates the agency's basis or  
1951 need for receiving reports of any arrest of that person, so that  
1952 the agency will not be obligated to pay the upcoming annual fee  
1953 for the retention and searching of that person's fingerprints to  
1954 the department.

1955 (4) Upon notification that a federal fingerprint retention  
1956 program is in effect, and subject to the department being funded  
1957 and equipped to participate in such a program, the department  
1958 shall, when state and national criminal history records checks  
1959 and retention of submitted prints are authorized or required by  
1960 law, retain the fingerprints as provided in paragraphs (2)(g)  
1961 and (h) and advise the Federal Bureau of Investigation to retain  
1962 the fingerprints at the national level for searching against  
1963 arrest fingerprint submissions received at the national level.

1964 Section 42. Subsections (6) and (11) of section 943.053,  
1965 Florida Statutes, are amended to read:

1966 943.053 Dissemination of criminal justice information;  
1967 fees.—

1968 (6) Notwithstanding any other provision of law, the  
1969 department shall provide to the ~~Florida~~ Department of Revenue  
1970 ~~Child Support Enforcement~~ access to Florida criminal records  
1971 which are not exempt from disclosure under chapter 119, and to  
1972 such information as may be lawfully available from other states

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1973 via the National Law Enforcement Telecommunications System, for  
1974 the purpose of locating subjects who owe or potentially owe  
1975 support, as defined in s. 409.2554, or to whom such obligation  
1976 is owed pursuant to Title IV-D of the Social Security Act. Such  
1977 information may be provided to child support enforcement  
1978 authorities in other states for these specific purposes.

1979 (11) A criminal justice agency that is authorized under  
1980 federal rules or law to conduct a criminal history background  
1981 check on an agency employee who is not certified by the Criminal  
1982 Justice Standards and Training Commission under s. 943.12 may  
1983 submit to the department the fingerprints of the noncertified  
1984 employee to obtain state and national criminal history  
1985 information. ~~Effective January 15, 2007,~~ The fingerprints  
1986 submitted shall be retained and entered in the statewide  
1987 automated fingerprint identification system authorized by s.  
1988 943.05 and shall be available for all purposes and uses  
1989 authorized for arrest fingerprint submissions ~~cards~~ entered in  
1990 the statewide automated fingerprint identification system  
1991 pursuant to s. 943.051. The department shall search all arrest  
1992 fingerprint submissions ~~cards~~ received pursuant to s. 943.051  
1993 against the fingerprints retained in the statewide automated  
1994 fingerprint identification system pursuant to this section. In  
1995 addition to all purposes and uses authorized for arrest  
1996 fingerprint submissions ~~cards~~ for which submitted fingerprints  
1997 may be used, any arrest record that is identified with the  
1998 retained employee fingerprints must be reported to the  
1999 submitting employing agency.

2000 Section 43. Section 985.644, Florida Statutes, is amended  
2001 to read:

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2002 985.644 Departmental contracting powers; personnel  
2003 standards and screening.-

2004 (1) ~~The department of Juvenile Justice or the Department of~~  
2005 ~~Children and Family Services, as appropriate,~~ may contract with  
2006 the Federal Government, other state departments and agencies,  
2007 county and municipal governments and agencies, public and  
2008 private agencies, and private individuals and corporations in  
2009 carrying out the purposes of, and the responsibilities  
2010 established in, this chapter.

2011 (a) ~~When the Department of Juvenile Justice or the~~  
2012 ~~Department of Children and Family Services contracts with a~~  
2013 ~~provider for any program for children, all personnel, including~~  
2014 ~~owners, operators, employees, and volunteers, in the facility~~  
2015 ~~must be of good moral character.~~ Each contract entered into by  
2016 the either department for services delivered on an appointment  
2017 or intermittent basis by a provider that does not have regular  
2018 custodial responsibility for children and each contract with a  
2019 school for before or aftercare services must ensure that the all  
2020 owners, operators, and ~~all~~ personnel who have direct contact  
2021 with children are subject to level 2 background screening  
2022 pursuant to chapter 435 ~~of good moral character.~~

2023 (b) A volunteer who assists the department or any program  
2024 for children on an intermittent basis for less than 40 hours per  
2025 month need not be screened if the volunteer is under direct and  
2026 constant supervision by persons who meet the screening  
2027 requirements.

2028 (b) ~~The Department of Juvenile Justice and the Department~~  
2029 ~~of Children and Family Services shall require employment~~  
2030 ~~screening pursuant to chapter 435, using the level 2 standards~~

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2031 ~~set forth in that chapter for personnel in programs for children~~  
2032 ~~or youths.~~

2033 ~~(c) The Department of Juvenile Justice or the Department of~~  
2034 ~~Children and Family Services may grant exemptions from~~  
2035 ~~disqualification from working with children as provided in s.~~  
2036 ~~435.07.~~

2037 ~~(2) The department may contract with the Federal~~  
2038 ~~Government, other state departments and agencies, county and~~  
2039 ~~municipal governments and agencies, public and private agencies,~~  
2040 ~~and private individuals and corporations in carrying out the~~  
2041 ~~purposes and the responsibilities of the delinquency services~~  
2042 ~~and programs of the department.~~

2043 ~~(3)~~ The department shall adopt a rule pursuant to chapter  
2044 120 establishing a procedure to provide notice of policy changes  
2045 that affect contracted delinquency services and programs. A  
2046 policy is defined as an operational requirement that applies to  
2047 only the specified contracted delinquency service or program.  
2048 The procedure shall include:

2049 (a) Public notice of policy development.

2050 (b) Opportunity for public comment on the proposed policy.

2051 (c) Assessment for fiscal impact upon the department and  
2052 providers.

2053 (d) The department's response to comments received.

2054 ~~(4) When the department contracts with a provider for any~~  
2055 ~~delinquency service or program, all personnel, including all~~  
2056 ~~owners, operators, employees, and volunteers in the facility or~~  
2057 ~~providing the service or program shall be of good moral~~  
2058 ~~character. A volunteer who assists on an intermittent basis for~~  
2059 ~~less than 40 hours per month is not required to be screened if~~

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2060 ~~the volunteer is under direct and constant supervision by~~  
2061 ~~persons who meet the screening requirements.~~

2062 (3)(5)(a) All employees of the department and all personnel  
2063 of contract providers for any program for children, including  
2064 all owners, operators, employees, persons who have access to  
2065 confidential juvenile records, and volunteers, must complete ~~For~~  
2066 ~~any person employed by the department, or by a provider under~~  
2067 ~~contract with the department, in delinquency facilities,~~  
2068 ~~services, or programs, the department shall require:~~

2069 1. A level 2 employment screening pursuant to chapter 435  
2070 prior to employment. The security background investigations  
2071 conducted under this section must ensure that, in addition to  
2072 the disqualifying offenses listed in s. 435.04, no person  
2073 subject to the background screening provisions of this section  
2074 has been found guilty of, regardless of adjudication, or entered  
2075 a plea of nolo contendere or guilty to, any offense prohibited  
2076 under any of the following provisions of the Florida Statutes or  
2077 under any similar statute of another jurisdiction:

2078 a. Section 784.07, relating to assault or battery of law  
2079 enforcement officers, firefighters, emergency medical care  
2080 providers, public transit employees or agents, or other  
2081 specified officers.

2082 b. Section 817.568, relating to criminal use of personal  
2083 identification information.

2084 2. A national ~~federal~~ criminal records check by the Federal  
2085 Bureau of Investigation every 5 years following the date of the  
2086 person's employment.

2087 (b) Except for law enforcement, correctional, and  
2088 correctional probation officers, to whom s. 943.13(5) applies,



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2089 the department shall electronically submit to the Department of  
2090 Law Enforcement:

2091 1. Fingerprint information obtained during the employment  
2092 screening required by subparagraph (a)1.

2093 2. ~~Beginning on December 15, 2005,~~ Fingerprint information  
2094 for all persons employed by the department, or by a provider  
2095 under contract with the department, in delinquency facilities,  
2096 services, or programs if such fingerprint information has not  
2097 previously been electronically submitted to the Department of  
2098 Law Enforcement under this paragraph.

2099 (c) All fingerprint information electronically submitted to  
2100 the Department of Law Enforcement under paragraph (b) shall be  
2101 retained by the Department of Law Enforcement and entered into  
2102 the statewide automated fingerprint identification system  
2103 authorized by s. 943.05(2)(b). Thereafter, such fingerprint  
2104 information shall be available for all purposes and uses  
2105 authorized for arrest fingerprint information entered into the  
2106 statewide automated fingerprint identification system pursuant  
2107 to s. 943.051 until the fingerprint information is removed  
2108 pursuant to paragraph (e). The Department of Law Enforcement  
2109 shall search all arrest fingerprint information received  
2110 pursuant to s. 943.051 against the fingerprint information  
2111 entered into the statewide automated fingerprint system pursuant  
2112 to this subsection. Any arrest records identified as a result of  
2113 the search shall be reported to the department in the manner and  
2114 timeframe established by the Department of Law Enforcement by  
2115 rule.

2116 (d) The department shall pay an annual fee to the  
2117 Department of Law Enforcement for its costs resulting from the

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2118 fingerprint information retention services required by this  
2119 subsection. The amount of the annual fee and procedures for the  
2120 submission and retention of fingerprint information and for the  
2121 dissemination of search results shall be established by the  
2122 Department of Law Enforcement by a rule that is applicable to  
2123 the department individually pursuant to this subsection or that  
2124 is applicable to the department and other employing agencies  
2125 pursuant to rulemaking authority otherwise provided by law. The  
2126 appropriate agency is responsible for collecting and paying any  
2127 fee related to fingerprints retained on its behalf to the  
2128 Department of Law Enforcement for costs resulting from the  
2129 fingerprint information retention services. The amount of the  
2130 annual fee and procedures for the submission and retention of  
2131 fingerprint information and for the dissemination of search  
2132 results shall be established by rule of the Department of Law  
2133 Enforcement.

2134 (e) The department shall notify the Department of Law  
2135 Enforcement when a person whose fingerprint information is  
2136 retained by the Department of Law Enforcement under this  
2137 subsection is no longer employed by the department, or by a  
2138 provider under contract with the department, in a delinquency  
2139 facility, service, or program. This notice shall be provided by  
2140 the department to the Department of Law Enforcement no later  
2141 than 6 months after the date of the change in the person's  
2142 employment status. Fingerprint information for persons  
2143 identified by the department in the notice shall be removed from  
2144 the statewide automated fingerprint system.

2145 (6) The department may grant exemptions from  
2146 disqualification from working with children as provided in s.

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2147 435.07.

2148 (7) The department may adopt rules pursuant to ss.  
2149 120.536(1) and 120.54 to describe the procedure and requirements  
2150 necessary to implement the employment screening and fingerprint  
2151 retention services for all employees of the department and all  
2152 personnel of contract providers for any program for children,  
2153 including all owners, operators, employees, and volunteers,  
2154 including the collection of associated fees.

2155 Section 44. Paragraph (a) of subsection (1) of section  
2156 381.60225, Florida Statutes, is amended to read:

2157 381.60225 Background screening.—

2158 (1) Each applicant for certification must comply with the  
2159 following requirements:

2160 (a) Upon receipt of a completed, signed, and dated  
2161 application, the Agency for Health Care Administration shall  
2162 require background screening, in accordance with the level 2  
2163 standards for screening set forth in chapter 435, of the  
2164 managing employee, or other similarly titled individual  
2165 responsible for the daily operation of the organization, agency,  
2166 or entity, and financial officer, or other similarly titled  
2167 individual who is responsible for the financial operation of the  
2168 organization, agency, or entity, including billings for  
2169 services. The applicant must comply with the procedures for  
2170 level 2 background screening as set forth in chapter 435, ~~as~~  
2171 ~~well as the requirements of s. 435.03(3).~~

2172 Section 45. Subsection (32) of section 409.912, Florida  
2173 Statutes, is amended to read:

2174 409.912 Cost-effective purchasing of health care.—The  
2175 agency shall purchase goods and services for Medicaid recipients

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2176 in the most cost-effective manner consistent with the delivery  
2177 of quality medical care. To ensure that medical services are  
2178 effectively utilized, the agency may, in any case, require a  
2179 confirmation or second physician's opinion of the correct  
2180 diagnosis for purposes of authorizing future services under the  
2181 Medicaid program. This section does not restrict access to  
2182 emergency services or poststabilization care services as defined  
2183 in 42 C.F.R. part 438.114. Such confirmation or second opinion  
2184 shall be rendered in a manner approved by the agency. The agency  
2185 shall maximize the use of prepaid per capita and prepaid  
2186 aggregate fixed-sum basis services when appropriate and other  
2187 alternative service delivery and reimbursement methodologies,  
2188 including competitive bidding pursuant to s. 287.057, designed  
2189 to facilitate the cost-effective purchase of a case-managed  
2190 continuum of care. The agency shall also require providers to  
2191 minimize the exposure of recipients to the need for acute  
2192 inpatient, custodial, and other institutional care and the  
2193 inappropriate or unnecessary use of high-cost services. The  
2194 agency shall contract with a vendor to monitor and evaluate the  
2195 clinical practice patterns of providers in order to identify  
2196 trends that are outside the normal practice patterns of a  
2197 provider's professional peers or the national guidelines of a  
2198 provider's professional association. The vendor must be able to  
2199 provide information and counseling to a provider whose practice  
2200 patterns are outside the norms, in consultation with the agency,  
2201 to improve patient care and reduce inappropriate utilization.  
2202 The agency may mandate prior authorization, drug therapy  
2203 management, or disease management participation for certain  
2204 populations of Medicaid beneficiaries, certain drug classes, or

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2205 particular drugs to prevent fraud, abuse, overuse, and possible  
2206 dangerous drug interactions. The Pharmaceutical and Therapeutics  
2207 Committee shall make recommendations to the agency on drugs for  
2208 which prior authorization is required. The agency shall inform  
2209 the Pharmaceutical and Therapeutics Committee of its decisions  
2210 regarding drugs subject to prior authorization. The agency is  
2211 authorized to limit the entities it contracts with or enrolls as  
2212 Medicaid providers by developing a provider network through  
2213 provider credentialing. The agency may competitively bid single-  
2214 source-provider contracts if procurement of goods or services  
2215 results in demonstrated cost savings to the state without  
2216 limiting access to care. The agency may limit its network based  
2217 on the assessment of beneficiary access to care, provider  
2218 availability, provider quality standards, time and distance  
2219 standards for access to care, the cultural competence of the  
2220 provider network, demographic characteristics of Medicaid  
2221 beneficiaries, practice and provider-to-beneficiary standards,  
2222 appointment wait times, beneficiary use of services, provider  
2223 turnover, provider profiling, provider licensure history,  
2224 previous program integrity investigations and findings, peer  
2225 review, provider Medicaid policy and billing compliance records,  
2226 clinical and medical record audits, and other factors. Providers  
2227 shall not be entitled to enrollment in the Medicaid provider  
2228 network. The agency shall determine instances in which allowing  
2229 Medicaid beneficiaries to purchase durable medical equipment and  
2230 other goods is less expensive to the Medicaid program than long-  
2231 term rental of the equipment or goods. The agency may establish  
2232 rules to facilitate purchases in lieu of long-term rentals in  
2233 order to protect against fraud and abuse in the Medicaid program

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2234 as defined in s. 409.913. The agency may seek federal waivers  
2235 necessary to administer these policies.

2236 (32) Each managed care plan that is under contract with the  
2237 agency to provide health care services to Medicaid recipients  
2238 shall annually conduct a background check with the Florida  
2239 Department of Law Enforcement of all persons with ownership  
2240 interest of 5 percent or more or executive management  
2241 responsibility for the managed care plan and shall submit to the  
2242 agency information concerning any such person who has been found  
2243 guilty of, regardless of adjudication, or has entered a plea of  
2244 nolo contendere or guilty to, any of the offenses listed in s.  
2245 435.04 ~~435.03~~.

2246 Section 46. Paragraph (e) of subsection (1) of section  
2247 464.018, Florida Statutes, is amended to read:

2248 464.018 Disciplinary actions.—

2249 (1) The following acts constitute grounds for denial of a  
2250 license or disciplinary action, as specified in s. 456.072(2):

2251 (e) Having been found guilty of, regardless of  
2252 adjudication, or entered a plea of nolo contendere or guilty to,  
2253 any offense prohibited under s. 435.04 ~~435.03~~ or under any  
2254 similar statute of another jurisdiction; or having committed an  
2255 act which constitutes domestic violence as defined in s. 741.28.

2256 Section 47. Paragraph (m) of subsection (1) of section  
2257 468.3101, Florida Statutes, is amended to read:

2258 468.3101 Disciplinary grounds and actions.—

2259 (1) The department may make or require to be made any  
2260 investigations, inspections, evaluations, and tests, and require  
2261 the submission of any documents and statements, which it  
2262 considers necessary to determine whether a violation of this

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2263 part has occurred. The following acts shall be grounds for  
2264 disciplinary action as set forth in this section:

2265 (m) Having been found guilty of, regardless of  
2266 adjudication, or pleading guilty or nolo contendere to, any  
2267 offense prohibited under s. 435.04 ~~435.03~~ or under any similar  
2268 statute of another jurisdiction.

2269 Section 48. Subsection (3) of section 744.309, Florida  
2270 Statutes, is amended to read:

2271 744.309 Who may be appointed guardian of a resident ward.—

2272 (3) DISQUALIFIED PERSONS.—No person who has been convicted  
2273 of a felony or who, from any incapacity or illness, is incapable  
2274 of discharging the duties of a guardian, or who is otherwise  
2275 unsuitable to perform the duties of a guardian, shall be  
2276 appointed to act as guardian. Further, no person who has been  
2277 judicially determined to have committed abuse, abandonment, or  
2278 neglect against a child as defined in s. 39.01 or s. 984.03(1),  
2279 (2), and (37), or who has been found guilty of, regardless of  
2280 adjudication, or entered a plea of nolo contendere or guilty to,  
2281 any offense prohibited under s. 435.04 ~~435.03~~ or under any  
2282 similar statute of another jurisdiction, shall be appointed to  
2283 act as a guardian. Except as provided in subsection (5) or  
2284 subsection (6), a person who provides substantial services to  
2285 the proposed ward in a professional or business capacity, or a  
2286 creditor of the proposed ward, may not be appointed guardian and  
2287 retain that previous professional or business relationship. A  
2288 person may not be appointed a guardian if he or she is in the  
2289 employ of any person, agency, government, or corporation that  
2290 provides service to the proposed ward in a professional or  
2291 business capacity, except that a person so employed may be

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2292 appointed if he or she is the spouse, adult child, parent, or  
 2293 sibling of the proposed ward or the court determines that the  
 2294 potential conflict of interest is insubstantial and that the  
 2295 appointment would clearly be in the proposed ward's best  
 2296 interest. The court may not appoint a guardian in any other  
 2297 circumstance in which a conflict of interest may occur.

2298 Section 49. Subsection (12) of section 744.474, Florida  
 2299 Statutes, is amended to read:

2300 744.474 Reasons for removal of guardian.—A guardian may be  
 2301 removed for any of the following reasons, and the removal shall  
 2302 be in addition to any other penalties prescribed by law:

2303 (12) Having been found guilty of, regardless of  
 2304 adjudication, or entered a plea of nolo contendere or guilty to,  
 2305 any offense prohibited under s. 435.04 ~~435.03~~ or under any  
 2306 similar statute of another jurisdiction.

2307 Section 50. Paragraph (a) of subsection (6) of section  
 2308 985.04, Florida Statutes, is amended to read:

2309 985.04 Oaths; records; confidential information.—

2310 (6) (a) Records maintained by the department, including  
 2311 copies of records maintained by the court, which pertain to a  
 2312 child found to have committed a delinquent act which, if  
 2313 committed by an adult, would be a crime specified in s. 55-  
 2314 ~~435.03~~ and 435.04 may not be destroyed under this section for a  
 2315 period of 25 years after the youth's final referral to the  
 2316 department, except in cases of the death of the child. Such  
 2317 records, however, shall be sealed by the court for use only in  
 2318 meeting the screening requirements for personnel in s. 402.3055  
 2319 and the other sections cited above, or under departmental rule;  
 2320 however, current criminal history information must be obtained



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2321 from the Department of Law Enforcement in accordance with s.  
2322 943.053. The information shall be released to those persons  
2323 specified in the above cited sections for the purposes of  
2324 complying with those sections. The court may punish by contempt  
2325 any person who releases or uses the records for any unauthorized  
2326 purpose.

2327       Section 51. The changes made by this act are intended to be  
2328 prospective in nature. It is not intended that persons who are  
2329 employed or licensed on the effective date of this act be  
2330 rescreened until such time as they are otherwise required to be  
2331 rescreened pursuant to law, at which time they must meet the  
2332 requirements for screening as set forth in this act.

2333       Section 52. This act shall take effect July 1, 2010.